HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February 1, 1911.*

The House met at 12 o'clock noon.

Prayer by Mr. Charles Alexander Richmond, president of Union College, Schenectady, N. Y.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 28632. An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 10361. An act to incorporate the Grand Army of the Republic.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 10361. An act to incorporate the Grand Army of the Republic; to the Committee on Military Affairs.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 10304. An act to authorize the construction, maintenance, and operation of a bridge across the Tombigbee River near Iron Wood Bluff, in Itawamba County, Miss.; and

S. 10268. An act granting to the Ozark Power & Water Co. authority to construct a dam across White River, Mo.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 20109. An act to quiet title to certain land in Dona Ana County, N. Mex.;

H. R. 21220. An act transferring Maries County to the eastern division of the eastern judicial district of Missouri;

H. R. 25235. An act to provide for the sale of lands acquired under the provisions of the reclamation act, and which are not needed for the purposes of that act;

H. R. 15660. An act providing for second homestead and desert-land entries; and

H. R. 15665. An act providing for the appointment of deputy clerks to the United States circuit court of appeals.

ORDER OF BUSINESS.

Mr. CRUMPACKER. Mr. Speaker, I move that all proceedings under paragraph 4 of Rule XXIV, providing for a call of the calendar, be dispensed with for this day.

The SPEAKER. The gentleman from Indiana moves that all proceedings provided for under Rule XXIV, paragraph 4, be dispensed with for this day.

Mr. SULZER. Mr. Speaker, what is the object of the motion——

The SPEAKER. On that motion, under the rule, there is five minutes debate on each side.

Mr. SULZER. Mr. Speaker, reserving the right to object, I would like——

The SPEAKER. There is no right to reserve the right to object. The gentleman from Indiana is entitled to five minutes, and if there is any gentleman opposed to the motion he is entitled to five minutes.

Mr. MOON of Pennsylvania. Mr. Speaker, I will occupy that time.

Mr. HARDWICK. Mr. Speaker, I am opposed to this motion.

Mr. CRUMPACKER. Mr. Speaker, the purpose of this motion is to expedite the public business. I think it is manifest to every Member of the House that it is a waste of time to continue the consideration of the penal-code bill. Two weeks ago to-day——

Mr. PARSONS. It is not the penal code; it is a revision of the judiciary title. We have passed the penal code.

Mr. CRUMPACKER. Well, a revision of the judiciary system. I stand corrected. Two weeks ago the entire day was taken up in the consideration of a single amendment. A week ago to-day one particular subject was considered, and I think the House did not conclude the consideration of that one subject.

Mr. MANN. Did not we pass 50 or 60 pages of the bill two weeks ago to-day?

Mr. CRUMPACKER. I do not know.

Mr. MANN. We did.

Mr. CRUMPACKER. Mr. Speaker, there are amendments pending which will occupy in and of themselves, in my judgment, every calendar Wednesday between now and the 4th day of March. Paragraph 4 of Rule XXIV provides that the House shall not operate under the rule for the call of the calendar during the last two weeks of the session. It seems to me that it is an impossibility to conclude the consideration of the bill that would have the right of way if this motion shall not be agreed to within the time under its command. It seems to me that it is an abuse at least of the spirit and purpose of calendar Wednesday to take up a bill of this character, one that will take up all of the calendar Wednesdays during an entire session of Congress.

Mr. GILLETT. Will the gentleman allow a question?

Mr. CRUMPACKER. I will allow a question.

Mr. GILLETT. I would like to ask the gentleman if a better way would not be to raise the question of consideration on this bill.

Mr. CRUMPACKER. The difficulty with that proposition is that the gentleman from Massachusetts several weeks ago raised the question of consideration upon this bill and it was voted down because the Members of the House understood that the next bill in order would be the bill providing for civil pensions, and a large majority of the Members of the House preferred to continue in the consideration of the judiciary bill rather than to take up for consideration the civil-pension bill.

Mr. GILLETT. How does the gentleman know that?

Mr. CRUMPACKER. I do not know it. I made that statement——

Mr. PARSONS. Will the gentleman yield for a question?

Mr. CRUMPACKER. I prefer not to yield, because I want to make an explanation or two before my time expires. I beg the gentleman's pardon.

If this motion shall prevail, then the next business in order will be the consideration of the agricultural appropriation bill. The House then can proceed to do real business, to employ its time valuably and in a way that will accomplish something. The calendar is crowded with important business, and the House ought to devote all the time it possibly can to the consideration of this business in order that it may conduct its work with intelligence and efficacy. I think the proceeding under the rules to-day would be a waste of another day; and if I did not so believe, I would not make this motion.

This motion does not impugn or is not in derogation of calendar Wednesday, because that rule wisely provides that in exigencies like this the House shall have the power by a two-thirds vote to dispense with proceedings under the rule and take up business of more general importance than could be taken up under the calendar Wednesday rule. It is a question for the House to determine whether it will waste another day or whether it will employ its time in the consideration of important and necessary public business.

The SPEAKER. The time of the gentleman has expired. The gentleman from Pennsylvania [Mr. MOON] is recognized.

Mr. MOON of Pennsylvania. Mr. Speaker, I take the position that there is no more important business before the country than this reorganization of the judiciary of the United States, and I want to call the attention of this House to the fact that this has been an acute subject of legislation now for over 12 years. Back in 1897 a commission was created for the purpose of making a report upon this subject. That commission sat for a number of years, and some $200,000 was expended in the preparation for this work. The work of that commission is the basis of the report of these committees. It seems to me, therefore, it must be apparent to the membership of this House, so largely constituted of members of the bar, that this is an important piece of present legislation.

Now, respecting the other point, that it is a waste of time upon the part of this House to pursue this legislation, because of the manifest impossibility of passing this bill at this session, I want to state for the benefit of this House that this bill is practically through the Senate of the United States. I desire to call the attention of the Members who are not familiar, perhaps, with the details of this bill that it is reported from a joint committee of the House and Senate; that this bill is the creation of that committee, and that it goes from the committee at the same time to the Senate of the United States and to the House of Representatives, and that the Senate of the United States has now reached the last chapter of this bill and that

last chapter includes only the repealing clauses. It is safe to state, therefore, so far as that chapter is concerned, it being purely and simply formal, it will not require over half an hour for the Senate to conclude it.

I should state that there are pending one or two suggestions of an amendment, but that the leading Members of the Senate have expressed their conviction that there is no doubt whatever about the passage of this bill by the Senate.

We have now about 80 pages of the bill remaining unread. These pages relate to the organization and jurisdiction of the Court of Claims, of the new Court of Commerce, the Customs Court, and the Supreme Court. Now, I think I have the right to presume that respecting such recent legislation as the Court of Commerce and the Customs Court, in view of the fact that we have carried that law in this bill without a particle of change, there would be no time consumed in this House in revising that. I may also state that, respecting the jurisdiction of the Supreme Court and the jurisdiction of the Court of Claims, all we report is existing law. Therefore, but for the fact that certain amendments are pending, I would make the confident prediction that this bill might be read in this House in one more legislative day.

Mr. HARDWICK. Is not this an effort to destroy calendar Wednesday, and would not that be the effect of the adoption of this motion?

Mr. MOON of Pennsylvania. On that subject, of course, I shall not attempt any discussion. But I ask this House, therefore, to consider these material facts and to vote down this attempt to set aside calendar Wednesday and to defeat further consideration of this bill.

The SPEAKER. The gentleman's time has expired. As many as favor the motion——

Mr. UNDERWOOD. Mr. Speaker, was there a limitation of time?

Mr. HARDWICK. The rule prescribes five minutes on a side.

The SPEAKER. Debate is exhausted under the rule.

Mr. UNDERWOOD. I ask unanimous consent to address the House for five minutes.

Mr. CAMPBELL. Regular order!

The SPEAKER. The gentleman from Alabama asks unanimous consent to address the House for five minutes. Is there objection?

Mr. MANN. Reserving the right to object——

Mr. CRUMPACKER. Regular order!

The SPEAKER. The regular order is demanded, which is an objection.

The question was taken, and the Speaker announced that in his opinion two-thirds had not voted in favor of the motion.

Mr. DWIGHT. Division!

The House divided; and there were—ayes 25, noes 129.

Mr. DWIGHT. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from New York makes the point of order that no quorum is present. The point is sustained. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 28, nays 279, answered "present" 3, not voting 75, as follows:

YEAS—28.

Anthony	Crumpacker	Guernsey	Steenerson
Barclay	Currier	Hamlin	Sulzer
Barnard	Driscoll, M. E.	Hubbard, W. Va.	Tawney
Burke, Pa.	Dwight	Lundin	Thistlewood
Burke, S. Dak.	Elvins	Miller, Minn.	Tilson
Calderhead	Fuller	Morse	Wheeler
Cowles	Gaines	Roberts	Wiley

NAYS—279.

Adair	Brantley	Cox, Ind.	Ferris
Adamson	Burgess	Cox, Ohio	Finley
Aiken	Burleson	Cravens	Fish
Alexander, Mo.	Burnett	Creager	Fitzgerald
Alexander, N. Y.	Butler	Crow	Flood, Va.
Allen	Byrns	Dalzell	Floyd, Ark.
Ames	Calder	Davidson	Foelker
Anderson	Campbell	Davis	Fordney
Andrus	Candler	Dawson	Fornes
Ansberry	Cantrill	Denver	Foss
Ashbrook	Carlin	Dickinson	Foster, Ill.
Austin	Carter	Dickson, Miss.	Foster, Vt.
Barchfeld	Cary	Diekema	Gardner, Mass.
Barnhart	Cassidy	Dixon, Ind.	Gardner, Mich.
Bartholdt	Chapman	Dodds	Gardner, N. J.
Bartlett, Ga.	Clark, Fla.	Douglas	Garner, Pa.
Bates	Clark, Mo.	Draper	Garner, Tex.
Beall, Tex.	Clayton	Driscoll, D. A.	Gill, Mo.
Bell, Ga.	Cline	Dupre	Gillett
Bennett, Ky.	Cocks, N. Y.	Durey	Glass
Bingham	Cole	Edwards, Ga.	Godwin
Boehne	Collier	Ellerbe	Goldfogle
Booher	Conry	Englebright	Good
Borland	Cooper, Pa.	Esch	Gordon
Boutell	Cooper, Wis.	Estopinal	Graff
Bowers	Covington	Fassett	Graham, Ill.
Grant	Kennedy, Iowa	Mitchell	Rucker, Colo.
Greene	Kennedy, Ohio	Mondell	Rucker, Mo.
Gregg	Kinkaid, Nebr.	Moon, Pa.	Scott
Griest	Kinkead, N. J.	Moon, Tenn.	Shackleford
Gronna	Kitchin	Moore, Pa.	Sharp
Hamer	Kopp	Moore, Tex.	Sheffield
Hamill	Korbly	Morgan, Mo.	Sherwood
Hamilton	Küstermann	Morgan, Okla.	Sims
Hammond	Lamb	Morrison	Sisson
Hanna	Langham	Moss	Slemp
Hardwick	Latta	Moxley	Small
Hardy	Law	Murphy	Smith, Iowa
Harrison	Lawrence	Needham	Smith, Mich.
Haugen	Lee	Nelson	Smith, Tex.
Hay	Legare	Nicholls	Sparkman
Hayes	Lenroot	Norris	Sperry
Heflin	Lever	Nye	Spight
Helm	Lindbergh	O'Connell	Stafford
Henry, Conn.	Lively	Oldfield	Stanley
Henry, Tex.	Livingston	Olmsted	Stephens, Tex.
Higgins	Lloyd	Padgett	Sterling
Hitchcock.	Longworth	Page	Stevens, Minn.
Hollingsworth	Loud	Palmer, A. M.	Sulloway
Houston	McCall	Palmer, H. W.	Swasey
Howell, N. J.	McCreary	Parsons	Taylor, Colo.
Howell, Utah	McCredie	Pearre	Taylor, Ohio
Howland	McDermott	Peters	Thomas, Ky.
Hubbard, Iowa	McHenry	Pickett	Thomas, N. C.
Hughes, Ga.	McKinley, Ill.	Poindexter	Tou Velle
Hughes, N. J.	McKinney	Pratt	Turnbull
Hughes, W. Va.	McLachlan, Cal.	Pray	Underwood
Hull, Iowa	McLaughlin, Mich.	Prince	Volstead
Hull, Tenn.	McMorran	Pujo	Wanger
Humphrey, Wash.	Macon	Rainey	Washburn
Humphreys, Miss.	Madden	Randell, Tex.	Watkins
James	Madison	Ransdell, La.	Webb
Jamieson	Maguire, Nebr.	Rauch	Weeks
Johnson, Ky.	Malby	Reeder	Wickliffe
Johnson, Ohio	Mann	Reid	Wilson, Ill.
Johnson, S. C.	Martin, Colo.	Richardson	Wilson, Pa.
Jones	Martin, S. Dak.	Riordan	Woods, Iowa
Keifer	Massey	Robinson	Young, Mich.
Keliher	Mays	Rodenberg	Young, N. Y.
Kendall	Miller, Kans.	Rothermel	

ANSWERED "PRESENT"—3.

Goulden	Saunders	Slayden

NOT VOTING—75.

Bartlett, Nev.	Garrett	Langley	Sabath
Bennet, N. Y.	Gill, Md.	Lindsay	Sheppard
Bradley	Gillespie	Loudenslager	Sherley
Broussard	Goebel	Lowden	Simmons
Burleigh	Graham, Pa.	McGuire, Okla.	Smith, Cal.
Byrd	Havens	McKinlay, Cal.	Snapp
Capron	Hawley	Maynard	Southwick
Coudrey	Heald	Millington	Sturgiss
Craig	Hill	Morehead	Talbott
Cullop	Hinshaw	Mudd	Taylor, Ala.
Denby	Hobson	Murdock	Thomas, Ohio
Dent	Howard	Olcott	Townsend
Dies	Huff	Parker	Vreeland
Edwards, Ky.	Joyce	Patterson	Wallace
Ellis	Kahn	Payne	Weisse
Fairchild	Knapp	Plumley	Willett
Focht	Knowland	Pou	Wood, N. J.
Fowler	Kronmiller	Rhinock	Woodyard
Gallagher	Lafean	Roddenbery	

So (two-thirds not having voted in favor thereof) the motion was lost.

The following pairs were announced:

For the session:

Mr. BRADLEY with Mr. GOULDEN.

Until further notice:

Mr. WOOD of New Jersey with Mr. SHERLEY.

Mr. LAFEAN with Mr. TALBOTT.

Mr. MOREHEAD with Mr. POU.

Mr. LOWDEN with Mr. SHEPPARD.

Mr. FAIRCHILD with Mr. SLAYDEN.

Mr. WOODYARD with Mr. RODDENBERY.

Mr. BURLEIGH with Mr. BYRD.

Mr. CAPRON with Mr. CRAIG.

Mr. DENBY with Mr. DENT.

Mr. FOCHT with Mr. GARRETT.

Mr. MCGUIRE of Oklahoma with Mr. MAYNARD.

Mr. MCKINLEY of Illinois with Mr. PATTERSON.

Mr. MILLINGTON with Mr. RHINOCK.

Mr. MURDOCK with Mr. SABATH.

Mr. OLCOTT with Mr. TAYLOR of Alabama.

Mr. PAYNE with Mr. WALLACE.

Mr. PLUMLEY with Mr. WEISSE.

Mr. SIMMONS with Mr. WILLETT.

Mr. SMITH of California with Mr. CULLOP.

Mr. SOUTHWICK with Mr. GILLESPIE.

Mr. THOMAS of Ohio with Mr. GILL of Maryland.

Mr. VREELAND with Mr. HAVENS.

Mr. HEALD with Mr. HOBSON.

Mr. HILL with Mr. HOWARD.

Mr. HUFF with Mr. LINDSAY.

Mr. KAHN with Mr. BROUSSARD.

Mr. KNAPP with Mr. DIES.

Mr. KNOWLAND with Mr. GALLAGHER.

Mr. LOUDENSLAGER with Mr. BARTLETT of Nevada.

The result of the vote was then announced as above recorded.

The SPEAKER. The doorkeepers will open the doors.

REVISION OF THE LAWS.

Mr. MOON of Pennsylvania. Mr. Speaker, I call up as unfinished business the bill (H. R. 23377) to codify, revise, and amend the laws relating to the judiciary. At the close of the consideration of the bill on Wednesday last there were certain amendments pending to section 116. We had, however, arrived at these bills, chapter 7, page 130. The proposition has been made and acceded to by the committee, as far as possible, that these amendments to section 116 shall remain pending until the following Wednesday, in order to afford the committee fuller opportunity to consider them, and that this morning we shall proceed with chapter 7, page 130.

Mr. HUBBARD of West Virginia. Mr. Speaker, I have no objection to that arrangement, with the understanding that the pending amendments shall come up for consideration on the first day when the House resumes consideration of the bill.

Mr. MANN. This will require unanimous consent.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? [After a pause.] The Chair hears none.

Mr. BRANTLEY. What is the motion, Mr. Speaker?

The SPEAKER. The Chair has not examined, but the Chair is clear that the gentleman from West Virginia is entitled to the floor on a pending amendment. The gentleman from Pennsylvania asks unanimous consent to drop the status just where it is and to go somewhere else in the bill.

Mr. BRANTLEY. Do I understand that the request includes all the pending amendments, or that this pending amendment be taken up next Wednesday morning?

Mr. MOON of Pennsylvania. That and all other amendments.

Mr. GOLDFOGLE. What amendments does the gentleman refer to?

Mr. MANN. The amendments to section 116.

Mr. GOLDFOGLE. I have not the bill before me.

Mr. MANN. It relates to the jurisdiction of circuit court judges.

Mr. MOON of Pennsylvania. It is putting the circuit court judges in the district courts.

The SPEAKER pro tempore (Mr. OLMSTED). Is there objection to the request of the gentleman from Pennsylvania? [After a pause.] The Chair hears none.

The Clerk read as follows:

[SEC. 135. The Court of Claims, established by the act of February 24, 1855, shall be continued. It shall consist of a chief justice and four judges, who shall be appointed by the President, by and with the advice and consent of the Senate, and hold their offices during good behavior. Each of them shall take an oath to support the Constitution of the United States and to discharge faithfully the duties of his office. The chief justice shall be entitled to receive an annual salary of $6,500 and each of the other judges an annual salary of $6,000, payable monthly, from the Treasury.]

Mr. KEIFER. Mr. Speaker, I offer the following amendment which I send to the desk and ask to have read.

The Clerk read as follows:

In lines 8, 9, and 10, page 130, strike out the following language: "Each of them shall take an oath to support the Constitution of the United States and to discharge faithfully the duties of his office."

Mr. KEIFER. Mr. Speaker, this is obviously an unnecessary provision and ought not to go in a statute. We ought not to fall into the habit of providing by law what every judicial officer of the United States is required to do by the Constitution. Turning to paragraph 3 of Article VI of the Constitution we find this language:

The Senators and Representatives before mentioned, and the members of the several State legislatures, and all legislative and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution, but no religious test shall ever be required as a qualification to any office or public trust under the United States.

I take it that under this provision of the Constitution of the United States every judicial officer must take the oath prescribed by the Constitution before he is qualified to enter upon the duties of his office, and while this clause may be said to do no harm, it is utterly useless, and if it has ever been followed before it is an unnecessary provision in a statute. I therefore move to strike it out.

Mr. MOON of Pennsylvania. I have no objection to that. It was simply carried into existing law, and I think that all the gentleman from Ohio has said is true in regard to it. It does not exist respecting the provisions of the other courts. I have no objection to its going out.

Mr. STAFFORD. Mr. Speaker, I rise in opposition to the amendment. I listened attentively to the remarks of the distinguished gentleman from Ohio [Mr. KEIFER], but I believe that his amendment goes too far. He is attempting by this amendment to strike out also from the oath that these judges are required to take that they shall discharge faithfully the duties of their office. I can see some reason why the judges should be required to take an oath that they will perform faithfully the duties of their office. I quite agree with the chairman of the committee and with the distinguished gentleman from Ohio that there is no need of carrying into the bill the requirement which is found in the Constitution, which is that they shall take oath to support the Constitution, but I can see a reason for their taking oath to perform the duties of their office, and therefore I suggest an amendment, to strike out, in line 9, the words "to support the Constitution of the United States." Personally I believe that there can be no serious objection to having the provision require that they shall take oath to support the Constitution. If they are going to be required to take some oath, as there is reason to believe they should, to discharge faithfully the duties of their office, it might as well include at the same time the enumeration of the requirement to support the Constitution of the United States, which the Constitution requires. Therefore I will not move the amendment I suggested, but believe that it is better, in view of the fact that they should take some oath to faithfully perform the duties of the office, and, as the Constitution requires, to support the Constitution, to have it in the present form. I hope the amendment will be defeated.

Mr. PARSONS. Does not the general statute cover the question of the oath to perform the duties of the office?

Mr. STAFFORD. I am not acquainted with the general statute or its scope, but I know that so far as the oath that is required from Cabinet officers is concerned, it is in identically the same language as we find here as the oath prescribed for these judges.

Mr. PARSONS. I understand that the statute prescribes the form of oath, and that in addition to swearing to support and defend the Constitution the affiant swears that he will well and faithfully discharge the duties of the office on which he is about to enter.

Mr. STAFFORD. If the general statute is to that effect, not only to support the Constitution, but to perform the duties of the office, then I agree that this is mere surplusage and should be eliminated; but until that statute is presented to the House I do not think it is good policy to go ahead without further information.

Mr. GRAHAM of Illinois. Mr. Speaker, will the gentleman yield for a question?

Mr. STAFFORD. I yield to the gentleman from Illinois.

Mr. GRAHAM of Illinois. Is not it true, on the theory of your answer, that "and to discharge faithfully the duties of his office" might also be eliminated, because that is necessarily implied, and if he failed to do it the punishment would not be perjury, but the ousting from the office. Now, what harm would it do, even though it be a limitation in the Constitution, to leave the language as it is? What harm is it to repeat a fundametnal fact that is a valuable one?

Mr. STAFFORD. That was my second thought, if the gentleman will permit me. Fearing there might be some need of having the oath as it is, to discharge faithfully the duties of the office, I see no real reason for eliminating the provision to support the Constitution.

Mr. GRAHAM of Illinois. It seems to me they should both remain in just as it is.

Mr. STAFFORD. That is my opinion now, I would like to say to the gentleman from Illinois.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. KEIFER. Mr. Speaker, the suggestion of the gentleman from Illinois is that it is better to have a surplusage in these laws, however long they may become. There has been a suggestion that it has been the general practice to do this, to take the oath to support the Constitution of the United States. There has been some talk about the qualifications of the judicial officer of the Federal Government including everything, faithful performance of duty and all, and it is not necessary to say that they should take an oath to support the Constitution and that the man will faithfully perform the oath of his office. There is the greatest doubt about whether or not it is within the power of Congress to require a judicial officer or other officer coming within the paragraph to take a further or a different oath from that required by the Constitution of the United States. There was a time in the history of this country when that question was very seriously discussed with reference to Members of Congress, when it was proposed to make an additional test oath, and I have seen one side of this House vote solidly against any provision that was different from that prescribed by the paragraph I have read. I think, and have

always thought, there was a great deal of danger in that direction, and we would get into difficulty if we would strike at that which affects a judicial officer at the time he enters upon these duties. There is nothing in this language here that is not included in the Constitution. Now, I think it has not been the practice, although this may have crept in—as the distinguished chairman of this committee states—it has crept into a part of the statutes requiring them to take an oath. He says in this case they follow the statute and therefore we find it here, but it is not usual, and when we have created judges of the Supreme Court, circuit judges, and district judges, I think that we have usually in those cases left such unnecessary language out of statutes creating judges. There is no occasion for putting it in here now and there may be great danger in it.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio.

The question was taken, and the Chair announced that the noes appeared to have it.

On a division (demanded by Mr. KEIFER) there were—ayes 7, noes 13.

Mr. HARDY. Put them together and it makes about 23.

The SPEAKER pro tempore. The Chair will correct the arithmetic of the gentleman; it makes 20. [Laughter.]

The Clerk read as follows:

SEC. 143. No Member *or Member-elect* of Congress shall practice in the Court of Claims.

Mr. MANN. Mr. Speaker, I move to strike out the last word. I would like to know what is the purpose of this provision in the law. What good does it do? It says that no Member or Member-elect of Congress shall practice in the Court of Claims. What good does it do? No Member with any sense of propriety would practice in the Court of Claims now, and there is no penalty here if he does. Since I have been in the House I knew one Member who did practice in the Court of Claims, and after having the claim allowed by the Court of Claims, had it reported from a committee of which he was a member, and finally passed the House; but what difference does it make? There is no penalty here and no provision. If we are to prohibit, as we ought, Members of Congress and Members-elect from practicing in the Court of Claims, we ought to put some penalty on it.

Mr. BARTLETT of Georgia. Will the gentleman permit a question?

Mr. MANN. Certainly.

Mr. BARTLETT of Georgia. There is a penalty, as the gentleman knows, if he undertakes to appear as an attorney in the departments while he is a Member of Congress or Member-elect. A Senator of the United States has been convicted and others indicted for violating that proper provision of law. As the gentleman has stated, it occurred to me that any Member of Congress or any Member-elect would not require the statute to prevent him appearing in the Court of Claims or in any department of the Government, and if we are going to provide in the law here that he shall not do so, and not provide any penalty, it simply makes the act absolutely inoperative. We can not enforce it. I agree with the gentleman thoroughly.

Mr. MANN. In the existing law we make a penalty for a Congressmen or Representatives-elect presenting a claim for pay to any of the departments, but permit him to urge the claim in the Court of Claims, and if the Court of Claims reports the claim it permits him, if he happens to be a member of the Committee on Claims, to logroll it through the House. While I do not think any Member of this House would do that, there might be some one elected in the future who would, as there has been some one elected in the past who did.

Mr. MOON of Pennsylvania. Mr. Speaker, I have only to say that the committee broadened the language to include a Member-elect only. The only thing I can say in regard to the fact that there is no penalty is that it would prevent a Member of Congress from appearing in the Court of Claims. The court would refuse to recognize him, declaring that it was contrary to law, and I presume the original framers of this bill felt that that was all that was necessary.

Mr. BARTLETT of Georgia. May I ask the gentleman a question? Suppose the attention of the court is not called to it; the court is not presumed to keep a roll of the Members of the House or of Members-elect to the House, and the attention of the court might not be called to it in any other way. He has a license to practice law in the Court of Claims, and when it is left to the court to determine whether or not a man should appear, it might criticize him, but the court might not refuse him opportunity to follow his profession when he is licensed by the courts of the District to appear in that court.

We have had some criticism of the effort of the Secretary of the Interior to prevent a former employee of that department from appearing as an attorney in the General Land Office because of his connection with an article that appeared criticizing the Secretary of the Interior in his conduct with reference to forest-reservation matters. And I know the President has been appealed to, and the statement was made that the right to practice law, as decided in the famous Garland case, and a license to practice law is a right and privilege which can not be taken away from him. I need not call the gentleman's attention to a case where an effort was made to prevent from appearing in the Supreme Court of the United States former Attorney General Garland, of Arkansas, who asked to be admitted to the Supreme Court of the United States, and where it was insisted that he would have to take a test oath before he would be permitted to appear in that court, and the Supreme Court of the United States decided that the act which prescribed this test oath, having been passed after he had been authorized to appear in that court, could not put upon him the duty of taking an additional oath. Now, how can the Court of Claims refuse to permit an attorney, because he may be a Member of Congress or a Member-elect, to appear and represent? I think they ought to be prevented from representing a case before the Court of Claims, and I think we ought to prescribe some penalty if men so far forget their duties as Members of Congress and Members-elect as to appear in the Court of Claims, or in any other matter which is to be brought before the department, and which they may finally pass on as Members of Congress. Congress ought to—for the benefit of the great many, almost all of them, who do not—prevent the exception occurring should there be somewhere a Member of Congress or Member-elect who will not heed the demands of decency and propriety and proper conduct. I thoroughly agree with the gentleman from Illinois [Mr. MANN] that we ought to enact it, and ought to prescribe some sort of penalty.

Mr. MOON of Pennsylvania. Mr. Speaker, the committee will have no objection to any amendment of that kind that may be made. This act was passed in 1865, and has been the law ever since. There will be no objection on the part of the committee to any amendment prescribing a penalty.

Mr. BARTLETT of Georgia. The only thing is that we have already dealt with the criminal code.

Mr. MOON of Pennsylvania. It can be put in here all right.

Mr. PARSONS. To meet the objections made I will offer an amendment, taking the language from the penal code we have already approved, as follows:

Strike out lines 5 and 6, section 143, on page 133, and insert in lieu thereof the following:

"Whoever, being elected or appointed a Senator, Member of or Delegate to Congress, or a Resident Commissioner, shall, after his election or appointment, and either before or after he has qualified, and during his continuance in office, practice in the Court of Claims shall be fined not more than $10,000 and imprisoned not more than two years; and shall, moreover, thereafter be incapable of holding any office of honor, trust, or profit under the Government of the United States."

The SPEAKER pro tempore. If there is no objection the pro forma amendment of the gentleman from Illinois will be considered as withdrawn. Now, the gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out lines 5 and 6, section 143, on page 133, and insert in lieu thereof the following:

"Whoever, being elected or appointed a Senator, Member of or Delegate to Congress, or a Resident Commissioner, shall, after his election or appointment, and either before or after he has qualified, and during his continuance in office, practice in the Court of Claims shall be fined not more than $10,000 and imprisoned not more than two years; and shall, moreover, thereafter be incapable of holding any office of honor, trust, or profit under the Government of the United States."

Mr. MANN. I think that penalty ought to be in the alternative.

Mr. MOON of Pennsylvania. It may be $1 and one day.

Mr. BARTLETT of Georgia. I do not think we ought to strike out lines 5 and 6. The section ought first to denounce the offense and then prescribe the penalty.

Mr. MOON of Pennsylvania. This covers not only Members of Congress, but Delegates and Resident Commissioners.

Mr. MANN. It is the same thing, with that addition.

Mr. PARSONS. This contains the very carefully selected language of the penal code which we passed two years ago. The provision is taken from that section of the penal code which prohibits Members from practicing before the departments, and uses that language in regard to practicing before the Court of Claims.

Mr. BARTLETT of Georgia. I am very familiar with that law, because I was a member of a committee appointed by the House to investigate the subject of the conduct of the Post Office Department. There is a similar section which also forbids a Member of Congress or a Member-elect from being interested in any contract with the Government. We had occasion

upon that committee to investigate what was known as the famous Bristow report, in which various charges were made against Members of the House. I was a member of that committee and went very thoroughly into all the statutes upon the subject. I am not criticizing the gentleman's amendment. I merely suggest that we probably ought to let this language remain in, and add to it Delegates as well as Members; that we ought first to denounce the crime, or rather declare that no Member or Delegate shall do that, and then prescribe the penalty for a violation of it. If the gentleman thinks his amendment reaches the whole trouble, I am content.

Mr. PARSONS. I am sure the amendment reaches the whole trouble.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. GRAHAM of Illinois. I ask unanimous consent for time to ask the gentleman from New York a question.

The SPEAKER pro tempore. The Chair will recognize the gentleman from Illinois in his own time.

Mr. GRAHAM of Illinois. The information I want from the gentleman from New York is whether, in his judgment, a conviction under the amendment he proposes would ipso facto vacate the office to which the person convicted was elected or appointed; and if it does not, then the amendment should contain a provision which would make a conviction work a forfeiture of the office.

Mr. PARSONS. I am not familiar with just what the provision of law is in that respect. The amendment itself does not provide for forfeiture of office.

Mr. GRAHAM of Illinois. My inquiry is whether that is implied.

Mr. MANN. The amendment provides that thereafter he shall be incapable of holding an office under the United States; but then the question comes up as to who has the right to determine whether a man can remain a Member of Congress. Under the Constitution that is for the House or Senate to determine, each as to its own Members, and no act of Congress can determine that.

Mr. HARDY. In other words, the gentleman thinks that Congress would have to act on it.

Mr. PARSONS. Yes; Congress would have to interpret the section, and each House would act upon the qualifications of its own Members.

The SPEAKER pro tempore. The question is on the amendment of the gentleman from New York.

The amendment was agreed to.

The Clerk read as follows:

[First. All claims (except for pensions) founded upon the Constitution of the United States or any law of Congress, upon any regulation of an executive department, upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty if the United States were suable: *Provided, however,* That nothing in this section shall be construed as giving to the *said* court jurisdiction to hear and determine claims growing out of the late Civil War, and commonly known as "war claims," or to hear and determine other claims which, *prior to March 3, 1887,* had been rejected or reported on adversely by any court, department, or commission authorized to hear and determine the same.]

[Second. All set-offs, counterclaims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever on the part of the Government of the United States against any claimant against the Government in said court: *Provided,* That no suit against the Government of the United States, brought by any officer of the United States to recover fees for services alleged to have been performed for the United States, shall be allowed under this *chapter until* an account for said fees shall have been rendered and finally acted upon *as required by law,* unless the proper accounting officer of the Treasury fails to act finally thereon within six months after the account is received in said office.]

Third. The claim of any paymaster, quartermaster, commissary of subsistence, or other disbursing officer of the United States, or of his administrators or executors, for relief from responsibility on account of *loss by* capture or otherwise, while in the line of his duty, of Government funds, vouchers, records, or papers in his charge, and for which such officer was and is held responsible.

Mr. BARTLETT of Georgia. I move to strike out the last word. I would like to inquire of the gentleman in charge of the bill why he puts the words "prior to March 3, 1887," in this bill. The gentleman is aware that under the rules certain claims are referred to the War Claims Committee, and they have them referred sometimes under what is known as the Bowman and sometimes under what we call the Tucker Act; the Bowman Act providing that as to claims which have been referred to what is known as the War Claims Commission and adversely reported on the evidence and papers shall, when authorized by Congress, be referred to the Court of Claims to pass upon certain questions.

The Tucker Act provided that claims against the Government denominated in this section war claims might also be referred to the Court of Claims by the House on resolution or bill where the claimant insisted that he had a valid claim, but had failed to present it to that commission, and that the claimants were not guilty of laches in presenting it to the commission.

Now, the gentleman's proposition is to fix a certain definite period in which you say they shall not consider it; of course, the gentleman must know that if Congress hereafter, by bill or resolution, shall refer a claim to the Court of Claims and instruct them to investigate it the court will do so; you can not bind future Congresses by this act.

Mr. PARSONS. If the gentleman will read sections 153 and 155 he will see that they provide for referring claims by Congress to the Court of Claims.

Mr. MANN. May I call the gentleman's attention to the fact that this section as to that limitation only provides that, under this section, they shall not hear claims accruing prior to March 3, 1887. This section does not cover the Tucker Act or the Bowman Act, and the limitation only applies to claims covered under this section.

Mr. BARTLETT of Georgia. If the gentleman will permit me, I think he is in error, because it says "nothing in this section"——

Mr. MANN. Yes; nothing in this section, but there are other sections in the bill that give jurisdiction of the claims to which the gentleman refers. In some cases there are three sections which give the same jurisdiction.

Mr. BARTLETT of Georgia. But the question often arises, and has arisen in Congress and the courts and will arise again, in reference to certain war claims. For instance, take property under the "captured and abandoned property act," where property was taken after hostilities had actually ceased, but because of the fact that the Supreme Court decided that the war did not cease until April 21, 1866, they have been classed as war claims.

Mr. MANN. If the gentleman from Georgia will pardon me for the suggestion, this section and the language therein, to which the gentleman refers, only says that this section does not confer jurisdiction on the Court of Claims as to war claims. The jurisdiction which has been exercised by the Court of Claims as to war claims is either under the Bowman Act or under the Tucker Act. The provisions of the Bowman Act of 1883 are carried in this bill, and the provisions of the Tucker Act of 1887 are also carried in this bill under those titles, and confers all the jurisdiction that the Court of Claims now has in reference to war claims that are contained in this bill, but under other sections.

Mr. MOON of Pennsylvania. The date of March 3, 1887, was put in because it is existing law. The Tucker Act, passed in March, 1887, specifies claims heretofore that have been rejected. That was passed March 3, 1887, and therefore we substituted the words "March 3, 1887," for the word "heretofore."

Mr. MANN. The gentleman understands that this section only confers jurisdiction on the Court of Claims on claims growing out of contracts.

Mr. BARTLETT of Georgia. I understand that.

Mr. MOON of Pennsylvania. That is existing law, and we do not change it a particle.

Mr. BARTLETT of Georgia. Then, why undertake to put something in it that apparently changes existing law?

Mr. MOON of Pennsylvania. We do not; we only substitute the words "March 3, 1887," for the word "heretofore," because it is the time the Tucker Act was passed; and it was understood that the word "heretofore" meant prior to "March 3, 1887."

Mr. MANN. The only question is whether the date ought to be in for other reasons; all claims are barred after six years under the provisions of law.

Mr. BARTLETT of Georgia. Congress has kept them alive.

Mr. MANN. This section does not relate to those claims at all.

Mr. BARTLETT of Georgia. I understand that very well; and I understand why it should be that these claims of the character described should not be permitted to be tried in the Court of Claims without some authority on the section which authorizes the trial of a case arising under a contract with the United States. I understand it is the peculiar character of the claims that they would have no standing in the Court of Claims except by law of Congress that may be expressed in the various acts. But I did not want this to go unchallenged, with the idea that we were closing forever the avenues of the people who may have just claims to presenting them to Congress and having the court authorize them to be heard.

Mr. MOON of Pennsylvania. We do not change the law at all.

Mr. MANN. Section 153 carries the Bowman Act and section 155 carries the Tucker Act in reference to claims heard by committees of Congress.

Mr. BARTLETT of Georgia. Mr. Speaker, I withdraw the pro forma amendment.

The Clerk read as follows:

SEC. 145. All petitions and bills praying or providing for the satisfaction of private claims against the Government, founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the Government of the United States, shall, unless otherwise ordered by resolution of the House in which they are introduced, be transmitted by the Secretary of the Senate or the Clerk of the House of Representatives, with all the accompanying documents, to the Court of Claims.

Mr. MANN. Mr. Speaker, I move to strike out the last word. I would like to call the attention of the House to one of the anomalies of legislation. This section of the bill provides that all bills which are introduced into Congress in reference to a private claim against the Government, founded upon any contract, etc., shall be referred by the Clerk of the House, if introduced into the House, or the Secretary of the Senate, if introduced in the Senate, to the Court of Claims. Also, that all petitions which may be presented in reference to this class of claims shall be referred by the Clerk of the House and the Secretary of the Senate, respectively, to the Court of Claims. The law was passed originally in 1863. I do not wonder that the committee in reporting this bill has been somewhat at a loss to know how to handle the Court of Claims. I venture to say, Mr. Speaker, that there is no man in the House who has been here long enough to have been here when a bill was referred under this provision of the law by the Clerk of the House to the Court of Claims or by the Secretary of the Senate to the Court of Claims. The law is the act of 1863, but it is not the law. In my judgment it has been obsolete for many years, repealed by implication, probably, by the Bowman Act or the Tucker Act.

Does anyone here pretend to say that it is the duty of the Clerk of the House to determine when a petition or a bill is presented in the House in reference to a private claim that it is one founded upon a law of Congress or upon a regulation of the executive department, or upon a contract, expressed or implied, by the Government, and thereupon, having determined that fact, send it or not send it to the Court of Claims, according as he finds the fact? Under this provision of the bill it is the duty of the Clerk of the House to examine in detail every private petition and every private bill presented to the House, and determine whether he will refer that bill to a committee of the House according to the rules of the House or to the Court of Claims, according to the law of Congress. It is absurd and obsolete.

Mr. MICHAEL E. DRISCOLL. Suppose a claim is outlawed under the law, has the Clerk of the House or the Secretary of the Senate power to refer it to the Court of Claims?

Mr. MANN. If a claim that is presented which accrued yesterday waits until the Clerk of the House refers it under this provision of the law to the Court of Claims, the claim will have been outlawed a thousand years before it gets there, in my judgment. It never has been done in recent years, and ought not to be covered into the law, because it was plainly the intent of Congress when it passed the Bowman law to change this, and when it passed the Tucker law to make another change.

Mr. MOON of Pennsylvania. I suggest to the gentleman that he move to strike it out.

Mr. MANN. I move to strike out the section. I made inquiry this morning of the Clerk of the House—and the present officers of the House have been here now for 14 or 16 years—as to whether they had ever heard of this provision of the law, and I could not find anyone that knew it was on the statute books, much less having acted under it.

Mr. BARTLETT of Georgia. The Clerk of the House or the Secretary of the Senate in construing this act—I think it was the Secretary of the Senate—referred a case under the Bowman Act or the Tucker Act from the committee to the Court of Claims, and the Court of Claims rendered a decision in which they said they had no jurisdiction.

Mr. MANN. That is under the Bowman Act. Under the Bowman Act the committee can send it.

Mr. BARTLETT of Georgia. They held they had no jurisdiction to try a case unless it was referred to them by Congress, through some action of the Houses of Congress.

Mr. MANN. Under the Bowman Act any committee of the House can refer a claim to the Court of Claims, and under the Tucker Act the House can refer a bill to the Court of Claims, but under this provision it is the duty of the Clerk to send it to the Court of Claims without either giving the Senate or the House a whack at it. I think it ought to go out of the bill.

Mr. MOON of Pennsylvania. Mr. Speaker, section 145 is an old law, as stated by the gentleman from Illinois, passed in 1863. The committee is under the impression that everything that can be done under that law has been covered by the Bowman Act and afterwards by the Tucker Act, which are carried in here at sections 153 and 155. Therefore the committee makes no objection to striking it out.

The SPEAKER pro tempore. The question is upon the amendment to strike out the section.

Mr. AUSTIN. Mr. Speaker, I ask unanimous consent that the amendment be again reported.

The amendment was again reported.

Mr. AUSTIN. Mr. Speaker——

The SPEAKER pro tempore. Does the gentleman from Tennessee desire to be heard?

Mr. AUSTIN. I desire to be heard just for a moment. I was called out of the Chamber at the time this section was reached and came in just as the gentleman from Illinois [Mr. MANN] was finishing. I do not believe this section ought to be stricken from the bill. I represent a district very much interested in the settlement and adjudication of war claims——

Mr. MANN. Will the gentleman allow me for a moment?

Mr. AUSTIN. Certainly.

Mr. MANN. This section is carried from the provisions of the act of 1863. In 1883 Congress passed what is known as the Bowman Act, authorizing any committee of either House of Congress to refer a claim to the Court of Claims. Congress afterwards passed the Tucker Act, in 1887, authorizing either House of Congress to refer a claim to the Court of Claims. This provision of the law has been obsolete at least ever since the Bowman Act was passed, probably considering that it was repealed by the Bowman Act, never has been used, but it may very seriously complicate the reference of anything to the Court of Claims. Now, it is desirable to have this statute, this reenactment with all parts of it of equal strength, uniform, so you can tell what it means. Of course, when you passed the Bowman Act and the Tucker Act the court might construe that the subsequent acts have repealed the former acts, and they can not construe, where you reenact them all at once, that any one thing is repealed more than another, and they have to work together; nor would you expect that the Clerk of the House—this does not relate to war claims, you understand—would undertake to determine whether a petition or claim came within the terms of this section nor to determine where it should be referred. Now, the other provisions in the bill still leaves the right of the committee to send any claim to the Court of Claims, or the House to send any claim to the Court of Claims.

The question was taken, and the motion was agreed to.

The Clerk read as follows:

SEC. 148. Whenever any claim is made against any executive department, involving disputed facts or controverted questions of law, where the amount in controversy exceeds $3,000, or where the decision will affect a class of cases, or furnish a precedent for the future action of any executive department in the adjustment of a class of cases, without regard to the amount involved in the particular case, or where any authority, right, privilege, or exemption is claimed or denied under the Constitution of the United States, the head of such department may cause such claim, with all the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in as if originally commenced by the voluntary action of the claimant; and the Secretary of the Treasury may, upon the certificate of any auditor or *of the* Comptroller of the Treasury, direct any account, matter, or claim of the character, amount, or class described in this section to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to the said court for trial and adjudication: *Provided*, That no case shall be referred by any head of a department unless it belongs to one of the several classes of cases which, by reason of the subject matter and character, the said court might, under existing laws, take jurisdiction of on such voluntary action of the claimant.

Mr. MANN. Mr. Speaker, I move to strike out the last word. I take it that in revising this code it is important that it be fairly clear and uniform, and while the committee may not have felt that they had jurisdiction to eliminate duplicate provisions of the statute, certainly it is proper for the House to do so. Now, here is a provision of law taken from the act of 1868, which provides that when any claim made against any executive department involving disputed facts or controverted questions of law, and so forth, the matter may be referred to the Court of Claims, with all the vouchers, papers, proofs, and documents pertaining thereto. Section 151 of this bill, taken from the act of 1887, provides when any claim or matter may be pending in any of the executive departments which involves controverted questions of fact or law the head of such department, with the consent of the claimant, may transmit the same, with vouchers, and so forth, to the Court of Claims. Section 152, which is taken from the Bowman Act of 1883, says when a

claim or matter is pending in any of the executive departments which may involve controverted questions of fact or law the head of such department may transmit the claim, with the vouchers, papers, proofs, and documents pertaining thereto, to the Court of Claims. Sections 151 and 152 are almost in identical language. Section 148 names precisely the same thing, but it may take a great many constructions of court to determine under which provision of the statute a claim is to be passed upon by the court. Now, I can see no object in putting three times in a statute authority for a head of a department to send any claim in which there is a controverted question of law or fact to the Court of Claims and get a decision, and know what section it is brought under.

Mr. DOUGLAS. May I ask the gentleman a question?

Mr. MANN. Certainly.

Mr. DOUGLAS. Does the gentleman from Illinois concede it to be true that section 148 includes the provisions of sections 151 and 152?

Mr. MANN. Exactly the same thing.

Mr. STAFFORD. Is there not this difference, if the gentleman from Illinois will permit, in section 148 the amount must be in excess of $3,000, where in the other section there is no limit at all?

Mr. MANN. There is that distinction, but that is a distinction without a difference. I mean, if you give in one section authority to bring amounts which do not exceed $3,000, and then in the next section give authority to bring a controversy involving any amount, it means the same thing, does it not?

Mr. DOUGLAS. If section 148, then I think it must be true. The point with me was whether it would leave section 148, or sections 151 and 152.

Mr. MANN. Section 148 ought to be left in, because that is the broadest.

Mr. DOUGLAS. It struck me that that was the broadest, but that does not make any limitation as to the amount.

Mr. NORRIS. That is one reason why it is broader.

Mr. DOUGLAS. That is one reason, but whether it would not be wise to have in that some limitation that is provided, that no constitutional question——

Mr. MANN. The limitation of amount in section 148 is not a practical limitation. It says:

In amounts not to exceed $3,000.

But, if it involves a class of cases, or any authority, right, privilege, or exemption in claims already denied under the Constitution, then there is no limitation of amount, and it is these cases that involve a class of cases that are referred by the head of the department to the Court of Claims.

Mr. NORRIS. As a matter of property, I presume the $3,000 limitation is almost null, and does not amount to anything.

Mr. MANN. That was an act of 1868, and supposed to be repealed by the Bowman Act of 1883, and then came the Tucker Act of 1887, and some men probably who had not examined one or the other practically repeated the same thing. I have no criticism of that. That constantly occurs. But we ought to put it in one section, so that the court will know if a case is before it from the department under the proper section of the statute.

Now, as to sections 151 and 152, let me read you what the difference is between them. Section 151 as compared with 152 reads like this:

SEC. 151. When any claim or matter may be pending.
SEC. 152. When a claim or matter is pending in any of the executive departments which may involve—

Section 151 involves controverted questions of acts or law, the head of such department, with the consent of the claimant. The latter is not in section 152.

Mr. MOON of Pennsylvania. That is the only vital difference. The court has held that is vital.

Mr. MANN. I know that if you give them authority to transmit without the consent of the claimant and with the consent of the claimant, both, you do not have to have a separate section to say so.

Mr. MOON of Pennsylvania. The court has held distinctly that in one the Court of Claims is advisory and on the other it is binding. It is in obedience to decisions of the Supreme Court that we put both of those in. They held they covered both classes of cases.

Mr. MANN. The gentleman is mistaken in reference to it.

Mr. MOON of Pennsylvania. The gentleman is not mistaken.

Mr. MANN. Absolutely mistaken in reference to it, and a mere reading of the provisions will show that he is mistaken. I was calling attention to the similarity between section 151 and section 152, and it reads:

With the consent of the claimant.

The next language is exactly the same:

May transmit the same with the vouchers, papers, proofs, and documents pertaining thereto to said court, and the same shall be there proceeded in under such rules as the court may adopt.

When the facts and conclusions of law shall have been found section 152 says:

It shall report its findings to the department by which it was transmitted.

There is no difference to the extent in value to the dotting of an "i" or the crossing of a "t" between the meaning of the two sections, 151 and 152, and the gentleman, I am very confident, is mistaken in saying that the Supreme Court has made any distinction in reference to those.

There is a vast distinction between the court having a right to enter a judgment in some cases and not having the right to enter a judgment in other cases; but in those two cases in these three sections the court can not enter a judgment as to any of them, except under another provision of the statute which equally applies to all of the sections.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MANN. I move to strike out section 148.

The SPEAKER pro tempore. The gentleman from Illinois moves to strike out the section.

Mr. MOON of Pennsylvania. Mr. Speaker, I shall oppose that motion, because, in my judgment, these sections cover totally distinct classes of claims.

The legislation creating the Court of Claims has been a long and diverse one. Several acts have been passed conferring this jurisdiction. One of the most important features of the legislation was to have a tribunal that could adequately ascertain facts respecting claims. Now, these claims come from various sources. They may be introduced into Congress by bills. They may arise before any of the executive departments of the Government. They assume very different forms. Sometimes the claimant may be willing to join in an application to submit his claim to the Court of Claims, and in others he may refuse to do it, and the Government, for its own advice and for its own information, will submit to the court all the papers, vouchers, and documents for a report from that court.

Now, here are three distinct classes of cases. Under section 148, for instance, a case may arise involving the sum of $3,000, or where the judgment in that case will affect a whole class of cases. That is the particular provision of section 148, where the judgment will furnish a precedent for the future action of any executive department in the adjustment of a class of cases.

Mr. NORRIS. Is not that true of section 152?

Mr. MOON of Pennsylvania. No; I should say not.

Mr. NORRIS. Would not that be regarded as establishing a precedent?

Mr. MOON of Pennsylvania. I should say not.

Mr. NORRIS. If section 152 were left in the law it would cover every class of cases that the gentleman has so far mentioned, would it not, because that would take in the $3,000 limitation that the gentleman has mentioned in regard to section 148. The section where there is no limitation would certainly include the section where there is a limitation.

Mr. MOON of Pennsylvania. Oh, respecting the limitation, yes; but there is vastly more in that section than the limitation.

Mr. NORRIS. Respecting the other class, where a case belongs to the class referred to in section 152, they could get that case before the court, could they not? And whether you state in the act expressly that it shall be a precedent or not, they would regard it as one anyway; and it would govern that class of cases, even though the law did not expressly state in statute form that it should.

Mr. MOON of Pennsylvania. I will say in answer to the gentleman that, of course, under section 152 it might be regarded as a precedent in certain cases, and it might not; but the judgment of the department is exercised under section 148. Suppose, for instance, there are a large number of cases pending that belong to a particular class.

Now, they make their classification of their own volition, without the consent of the claimant, and for the purpose of securing a precedent that will enable them to dispose of this vast mass of cases they submit a case under section 148.

Mr. MANN. Does the gentleman know of any case that has been submitted by the head of a department in the last 20 years under the act of 1868?

Mr. MOON of Pennsylvania. The gentleman does not. But that does not mean anything, because the gentleman is not familiar with that and has not made any inquiries. There may have been a hundred cases and there may have been none.

Mr. MANN. I am told by a gentleman who ought to know that there has not been one submitted under that act within that time.

Mr. NORRIS. If the gentleman from Illinois would ask his question of the gentleman from Pennsylvania and refer to the section instead of "the act of 1868," his question would be more easily understood.

Mr. MANN. Section 148 is the one I refer to.

Mr. MOON of Pennsylvania. I repeat that I do not know anything about it. There may have been 100 and there may have been none. I did not make any inquiry about that. I found that the Supreme Court, in One hundred and sixtieth United States, passed upon the vital distinction existing between these sections. Basing our judgment upon the fact that the Supreme Court had vitalized that distinction and said they governed distinct classes of cases, we carried them in, after mature consideration and deliberation, starting practically with the view now expressed by the gentleman from Illinois.

Mr. MANN. I will venture to say that the gentleman is mistaken about the decision of the Supreme Court.

Mr. MOON of Pennsylvania. I have it here; I have not looked at it for a long time. I do not vouch for anything until I have read the opinion.

Mr. MANN. It does not compare these provisions at all.

[The time of Mr. MOON of Pennsylvania having expired, by unanimous consent it was extended five minutes.]

Mr. MOON of Pennsylvania. Mr. Speaker, I will read the syllabus. It is a long time since I have read it, and it may be when I read it it will establish the contention of the gentleman from Illinois. If it does, I shall bow to it.

Any claim made against an executive department, "involving disputed facts or controverted questions of law, where the amount in controversy exceeds $3,000, or where the decision will affect a class of cases, or furnish a precedent for the future action of any executive department in the adjustment of a class of cases, without regard to the amount involved in the particular case, or where any authority, right, privilege, or exemption is claimed or denied under the Constitution of the United States," may be transmitted to the Court of Claims by the head of such department under Revised Statutes, page 1063, for final adjudication; provided such claim be not barred by limitation, and be one of which, by reason of its subject matter and character, that court could take judicial cognizance at the voluntary suit of the claimant.

Any claim embraced by Revised Statutes, section 1063, without regard to its amount, and whether the claimant consents or not, may be transmitted under the act of March 3, 1883, chapter 116, to the Court of Claims by the head of the executive department in which it is pending for a report to such department of facts and conclusions of law for "its guidance and action."

Any claim embraced by that section may, in the discretion of the executive department in which it is pending, and with the expressed consent of the plaintiff, be transmitted to the Court of Claims under the act of March 3, 1887, chapter 359, without regard to the amount involved, for a report, merely advisory in its character, of facts or conclusions of law.

Mr. NORRIS. The gentleman referred to some section of the Revised Statutes and said it was the same as section 152.

Mr. MOON of Pennsylvania. I may have the numbers wrong.

Mr. NORRIS. I would like to ask the gentleman from Pennsylvania a question, and I am asking for information, because I would like to have these out if they ought to be out, and let them remain in if they ought to stay in. It strikes me from what the gentleman has read that that information would be exactly the same if sections 148 and 151 were stricken out and section 152 remained in. I do not think it proves anything because they have tried a case and passed on it under section 148 that they could do the same thing under a different section if section 148 were stricken out.

Mr. MANN. Under section 154 of the act, a part of existing law, it is provided that—

When it shall appear to the satisfaction of the court and the facts established that it has jurisdiction to enter judgment and decree thereon under existing law, it shall proceed to do so.

Mr. PARSONS. What section is that?

Mr. MANN. One hundred and fifty-four. That is a part of existing law. It reads:

If it shall appear to the satisfaction of the court, upon the facts established, that it has jurisdiction to render judgment or decree thereon under existing laws, it shall proceed to do so, etc.

It absolutely covers every kind of a claim that can be presented to the department and authorizes the transmission of that claim by the head of the department, without sending the claimant to the court, and authorizes the court to enter judgment if it finds judgment ought to be rendered, and to transmit those findings in any event to the department for its guidance for the future.

[The time of Mr. MOON of Pennsylvania having again expired, by unanimous consent his time was extended two minutes.]

Mr. MOON of Pennsylvania. Now, I want to preface what I state with the remark that this committee has no committee pride in maintaining this bill as it is. We are with you a unit in endeavoring to make this law the best that can be made, and wherever, in the judgment of the House, there is a superfluous section we shall make no objection to its being eliminated. There is no doubt about the House having the power to consolidate these sections. The Supreme Court has held that it was not bound by the Tucker Act, and if I had time I could read where the court goes into an extended explanation to say that Congress did not intend by section 152 to repeal section 151, and it gives very important and conclusive reasons why it did not intend to do it. It does not express any idea that it would not have been wise if it had been done, and it may be wise for us now to do it. I only stand here for the committee to say that those sections are both in force.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I ask that the gentleman may be given time within which he may give the part of that decision differentiating these sections by reading from the opinion of the court.

Mr. MOON of Pennsylvania. If the House wants me to do it, I will read it. Of course everyone will understand that taking up a decision here under the impulse of the moment, not having time to read it through myself exhaustively, I read it at haphazard, but on page 612 of this opinion, which, by the way, is the opinion in the case of New York *v.* The United States, Mr. Justice Harlan, speaking for the court, says:

It is difficult to tell what was intended by the words "with the consent of the claimant" in the twelfth section of the Tucker Act. If Congress intended that no claim, large or small in amount, involving controverted questions of fact or law and pending in an executive department, should be transmitted to the Court of Claims except with the consent of the claimant, that intention would have been expressed in words that could not have been misunderstood, for that court had long exercised jurisdiction in cases of that kind. But, in view of the words used, no such purpose can be imputed to Congress. The Tucker Act can not be held to have taken the place of section 2 of the Bowman Act; for section 13 of the Tucker Act distinctly provides for judgment in every case then pending in or which might have come before the Court of Claims under the Bowman Act, of which that court could have taken judicial cognizance if the case had been commenced originally by suit instituted in that court by the claimant. That Congress did not intend to supersede the Bowman Act is made still more apparent by the fourteenth section of the Tucker Act, declaring "that whenever any bill, except for a pension, shall be pending in either House of Congress providing for the payment of a claim against the United States, legal or equitable, or for a grant, gift, or bounty to any person, the House in which such bill is pending may refer the same to the Court of Claims, who shall proceed with the same in accordance with the provisions of the act approved March 3, 1883.

Thereby reaffirming the Tucker Act. Now, the opinion goes largely to a decision of the fact that the one act did not repeal the other act. There is no contention here by the gentleman from Illinois that it did, but it also clearly draws this distinction between section 151 and section 152. Whether it is advisable to retain it or not is entirely within the control of the House, and upon that subject I shall have nothing whatever to say. I am only reporting this simply to show that the committee had no other right or duty in the premises than to report this particular section.

Mr. NORRIS. Nobody disputes that.

Mr. DOUGLAS. Well, I am going to dispute it—that is, I am going to oppose the motion of the gentleman from Illinois to strike out section 148, because I find myself in a position from which I think the labors of this committee ought to have relieved me. I do not mean to say this in any spirit of criticism, but here we have an attempted codification of three acts, and I do not see why we should have all three of these sections in this law. It seems to me that section 152 substantially is all that is necessary to confer upon this court the class of jurisdiction which is attempted to be conferred by sections 148 and 151. But I am perfectly well aware, after practicing law with some diligence for thirty-odd years, that where the scope of the jurisdiction of a court depends upon legislation, as the jurisdiction of the Court of Claims and almost every other court must depend, and these enactments have been passed from time to time and have received the construction of the court relative to its own jurisdiction, it is hazardous for any legislature in dealing with them to strike down any portion of that legislation.

At least this should not be done without the most careful consideration of what the courts of last resort have said and the construction those courts have placed on these different acts, otherwise we run the risk of clipping the court of some jurisdiction which it ought to have. It seems to me that unless it was made the duty of the committee simply to draw together all the acts that were ever passed on this subject and reenact them—and that I submit would be a work of pure superogation—then the committee itself should have been prepared to point out clearly the distinctions between these several sections.

Mr. MOON of Pennsylvania. Well, has not the committee, by its chairman, pointed out clearly now, through its chairman, the distinction between these acts?

Mr. DOUGLAS. He has not; whether it is the fault of the gentleman from Ohio or the gentleman from Pennsylvania——

Mr. MOON of Pennsylvania. Well, I will leave that to the House to say.

Mr. BARTLETT of Georgia. Mr. Speaker, while we have this section up I would like to inquire of the gentleman from Pennsylvania [Mr. MOON]—I would like to have the attention of the gentleman from Pennsylvania for a moment. Mr. Speaker, I do not see in this bill any provision which reenacts or in any way refers to section 1059, paragraph 4, of the Revised Statutes, and I would like to know what has become of it. It is not in this section.

Mr. MANN. What is that?

Mr. BARTLETT of Georgia. Section 1059 of the Revised Statutes, paragraph 4, provides for claims in reference to the proceeds of captured and abandoned property. I do not see that anywhere in either one of these sections and I want to inquire where it is.

Mr. MANN. I think that is all outlawed.

Mr. BARTLETT of Georgia. Mr. Speaker, I have been trying to get the attention of the gentleman from Pennsylvania to ask him what has become of section 1059, paragraph 4, of the Revised Statutes, because in this revision there does not seem to be anything about it, and it seems to be left out.

Mr. MOON of Pennsylvania. We have put it in another section. Was the gentleman speaking to me?

Mr. BARTLETT of Georgia. Yes; but the gentleman did not hear me.

Mr. MOON of Pennsylvania. I beg the gentleman's pardon.

Mr. BARTLETT of Georgia. There is no apology necessary; but claims with reference to the proceeds of captured and abandoned property were provided for under the act of March 12, 1863.

Mr. MOON of Pennsylvania. My impression now is—I know we considered that, as we considered every section of all these acts—the conclusion we reached, which was based upon the facts, was that that was entirely obsolete, belonging to a period of time long past, and no claim has arisen under it, and we therefore did not carry it in the bill.

Mr. BARTLETT of Georgia. Mr. Speaker, I have taken the opportunity upon this amendment to call the attention of the gentleman from Pennsylvania in charge of this bill, and to suggest that that act is not obsolete; that there are now pending before this Congress and there have been pending before the Court of Claims a number of cases to recover property which has been captured or abandoned and sold by the officers of the United States and the money paid into the Treasury of the United States.

Mr. MOON of Pennsylvania. Will the gentleman pardon an interruption?

Mr. BARTLETT of Georgia. Assuredly.

Mr. MOON of Pennsylvania. Those cases that have been pending before Congress have arisen under the provisions of the Tucker Act.

Mr. BARTLETT of Georgia. No, not at all; the gentleman is mistaken about that. Millions of dollars are now in the Treasury of the United States paid into the Treasury of the United States under the act of March 12, 1863, and as amended again by the act of 1864. It has been paid into the Treasury on account of property taken after the cessation of hostilities, some of it as late as December, 1865, and some as late as January, 1866, and the proceeds of that property are now in the Treasury of the United States to the credit of this captured and abandoned fund.

Mr. MANN. And there is no way of getting it out of the Treasury except by act of Congress.

Mr. BARTLETT of Georgia. I do not know——

Mr. MANN. I think the gentleman does know, or he would have gotten it out.

Mr. BARTLETT of Georgia. I know there was an effort made and some sixty-odd thousand dollars of it was paid to a citizen of my State upon a suit brought, and certain facts referred having been established, one of which was loyalty to the United States, since I have been here. The first session I was here the House passed an act appropriating the money to pay that claim.

Mr. MANN. If the gentleman will pardon me, there was an act of Congress, maybe, but is not the gentleman referring to an act giving the Court of Claims or some other court jurisdiction on claims which were brought before a certain time, and these claims have all been disposed of; that the claims now coming in to obtain a part of this money in the Treasury from captured and abandoned property are now referred, under the Tucker or Bowman Act, to the Court of Claims, but the Court of Claims has now no jurisdiction on those claims now presented under the original act here for captured or abandoned property?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BARTLETT of Georgia. Mr. Speaker, I ask unanimous consent for five minutes more in order to clear up this situation.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. BARTLETT of Georgia. As accurate as my friend always is—and I hesitate to question his information or his statements on any subject—I do not think he is as accurate or as well informed on this as he usually is upon all subjects he discusses.

We have here the latest revision of the Revised Statutes. As far as I am concerned and as far as I have looked into the question I find no repeal of this law. We find that on March 12, 1863, this captured and abandoned property act was passed by Congress. In 1864 it was further amended, and further amended in July, 1868, and in 1875, and it is a part of the law of the United States and gives the Court of Claims jurisdiction. In the fourth paragraph of section 1059 of the Revised Statutes jurisdiction is conferred on the Court of Claims of all cases for the receipt and capture of abandoned property under the act of March 12, 1863, and other acts amendatory of that act. And it provides that no party shall have other redress than in the Court of Claims. The Committee on the Revision of the Laws in this bill do not incorporate in the body of the laws this act, and my friend from Pennsylvania [Mr. MOON] says it is obsolete.

Mr. MOON of Pennsylvania. Let me ask the gentleman if any other suits can now be brought under that act.

Mr. BARTLETT of Georgia. They have not been brought. I do not know. I know Congress has been appealed to. The Congress of the United States has on two different occasions passed an act authorizing the parties who could identify their property as having been sold and covered into the Treasury to go to the Court of Claims and establish that fact. The War Claims Committee of this House have during three Congresses unanimously reported a bill providing for the relief of these claimants, and we have not yet been able to get any act of Congress providing that we can be heard in the Court of Claims.

The whole trouble is this, Mr. Speaker and gentlemen, that the Court of Claims decided, and this was upheld by the Supreme Court of the United States, that in order to recover the property under the captured and abandoned property acts the claimant had to prove loyalty to the United States during the period from 1861 to 1865, and put the recovery under this statute of claimants for the proceeds of property captured and abandoned and sold and the proceeds paid into the Treasury of the United States upon the same footing of claims for supplies furnished the Armies of the United States under the Southern Claims Commission. And I will say to the gentleman that I have a list of these claims from my State and from other States, showing the amount of property that was seized, when it was seized, and what it brought, and the amount that was covered into the Treasury, and there are a number of instances where that property was seized and sold long after the cessation of hostilities, and they have not been permitted and have not brought their suits under this act of March 12, 1863, because they would not be able to prove loyalty to the United States from 1861 to 1865. The trouble grows up out of the proposition that the Supreme Court had decided that the war did not end until April 21, 1866, while really it had ended, for all the armies had surrendered, and we were again at peace, pursuing our peaceful avocations, after the surrender of the army of Gen. Johnston in North Carolina. The war had actually ended, but the legal status as defined by the Supreme Court of the United States did not end the war until the 21st of April, 1866. So you can readily see the status of men who have not been able to prove loyalty up to that time.

The property was taken by the United States Government and its officers and sold and the proceeds covered into the Treasury, and for this half century have laid there to the credit of this captured and abandoned property fund. All the claimants for that fund have asked is that they shall be able to show that it was their property that was taken by the officers of the United States, sold, and covered into the United States Treasury, and is there to-day.

Mr. COOPER of Wisconsin. What does it aggregate?

Mr. BARTLETT of Georgia. Between some $11,000,000 and $12,000,000. The Treasury books show it. They show the fund to which it is accredited. They have an account of what it brought and the expenses attending to it, the parties from whom it was taken; and these people, certainly those who are entitled

to it now, ought to be permitted to show to the court or to some other department of the Government that it is their property, taken not during the war and appropriated to the use of the Government during the war, but it was taken after the cessation of hostilities, and sold, and the proceeds covered into the Treasury of the United States, and are there to-day.

Mr. COOPER of Wisconsin. Will the gentleman yield for a question?

Mr. BARTLETT of Georgia. Yes.

Mr. COOPER of Wisconsin. Are the names of individuals included in the records of the Government?

Mr. BARTLETT of Georgia. Yes.

Mr. COOPER of Wisconsin. With the specific amounts?

Mr. BARTLETT of Georgia. Exactly; they are there. There has been a document published by Congress since I have been here, and I have a copy of it in my office, which states the names, the marks, the amounts, the weights, the prices at which the cotton was sold, and the expense attending the sale of it; and all that these people to whom that money belongs are asking is that they may be permitted to go before some tribunal designated by Congress itself—that they may go before the Court of Claims and be given an opportunity to show that it is their property, and not require them, in order to have what belongs to them, to say that during the four years of this great internecine struggle they or their ancestors, or those to whom this property belonged, were loyal to the United States, in view of the fact that the struggle had ended when the property was taken. That is all; and I for one do not see why this section should be left out.

Mr. COOPER of Wisconsin. Does the gentleman say this property was taken after Johnston's surrender, but before April, 1866?

Mr. BARTLETT of Georgia. In many instances it was. I have a list of it, so far as some of my constituents were concerned, where it was taken as late as December, 1865, and January, 1866.

Mr. ADAMSON. It is set forth in a Senate document.

Mr. LINDBERGH. Does the gentleman know what proportion of the $11,000,000 was taken before and what proportion after?

Mr. BARTLETT of Georgia. I do not know. I could tell by reference to this document, if I could put my hands upon it.

Mr. LINDBERGH. Can the gentleman tell approximately?

Mr. BARTLETT of Georgia. I should say at least 60 per cent of it was taken after the cessation of hostilities. I know in my own immediate neighborhood, in the town of Macon, where I live, and the surrounding country, which is a great cotton-raising country, and where there were large warehouses of cotton, that after the surrender, after the last gun had been fired at the bridge at Columbus, Ga., after Gen. Johnston, who commanded the remnant of Confederate forces in Alabama and Mississippi, had surrendered, and long after everything in the way of resistance had ceased, after our people had laid down their arms, this property was gathered up and sold, and its proceeds converted into the Treasury of the United States under some sort of pretext, some order, some imagined authority. I know as late as 1867 it took an injunction from a judge of the superior court of the State of Georgia to enjoin a United States officer acting as a provost marshal in one of the Georgia cities from further seizing and disposing of some 7,000 bales of cotton which had been seized by him or pretended to be seized by him under this law. The records of Congress show that President Johnson issued a special direction to that officer to release these 7,000 bales of cotton and to obey the injunction of the court, issued as late as 1867.

I know that there are millions of dollars of our people's money lying in the Treasury of the United States, the proceeds of cotton and other property seized by the Federal Army long after every vestige of resistance had ceased, and it is not just to them, it is not fair to them, it is not proper for this Government to hold the proceeds of the property and give these people no means of establishing the identity or the ownership of it. Years have passed, it is true. We have demonstrated to the world, in spite of poverty and oppression, that we have been able to rise above all those things and to become almost the wonder of the world in the way in which we have prospered and advanced. And now, when all feeling with reference to this great war has ceased, or ought to have ceased, justice demands that the United States Government, which has the money of these people in its Treasury unjustly, shall give them an opportunity to be heard, and that is all they ask.

Mr. COOPER of Wisconsin. Will the gentleman yield for a question?

Mr. BARTLETT of Georgia. I will.

Mr. COOPER of Wisconsin. Have these bills been presented for the payment of this money?

Mr. BARTLETT of Georgia. Yes.

Mr. COOPER of Wisconsin. What has become of them?

Mr. BARTLETT of Georgia. Some have passed and some of them have been reported. I stated that the Senate of the United States twice reported the bill and passed it. It came to the House and the War Claims Committee of the House reported it unanimously two or three times. But the gentleman from Wisconsin knows how difficult it has been in the past few years to pass any legislation that did not meet the approval of the men who controlled the House.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I have read the three sections, 148, 151, and 152, I think half a dozen times since this discussion commenced, and I have listened to the very able arguments delivered on the subject by the several gentlemen who have spoken. I have been trying to ascertain what it was my duty to do with reference to the three sections, and I have come to the conclusion that no one of them, or no two of them, can be stricken out and leave all the law in that there is now. It is possible that all three sections could be taken up by the gentleman from Illinois or the gentleman from Pennsylvania with sufficient time, and that all three could be incorporated into one which would include all the provisions that are now in the three; but I do not think that any one of these as it now stands includes all the provisions that are intended to be carried in the three sections. Section 148 apparently is intended to cover and include important matters—those involving $3,000 or upward—and involving questions which are to be precedents for the decision of many other cases which come in the same class. They are the most important cases of this character.

Section 151 provides that the reference to the Court of Claims must be made with the consent of the claimant, and that provision is not carried in section 148 or 152. The action of the Court of Claims is not exactly the same in section 151 and section 152. In section 151 the court is to report its findings. In section 152 it is to report its findings and opinions for the guidance of the department.

Mr. MANN. It is to report what?

Mr. MICHAEL E. DRISCOLL. In one section it says that the court is to report its findings and in the other its findings and opinions.

Mr. MANN. The report of findings and opinions would include the reporting of findings.

Mr. MICHAEL E. DRISCOLL. The court may report findings of fact without giving any opinions or without giving any conclusions of law.

Mr. MANN. But if it reports both findings and opinions that will include findings.

Mr. MICHAEL E. DRISCOLL. Yes.

Mr. MANN. That is what we said, that section 152 covered section 151.

Mr. MICHAEL E. DRISCOLL. There is another difference. In section 151 it says "by the consent of the claimant."

Mr. MANN. The authority to refer without the consent of the claimant includes authority to refer with the consent of the claimant. The authority to refer in all cases includes every case.

Mr. MICHAEL E. DRISCOLL. That is true.

Mr. FLOYD of Arkansas. Mr. Speaker, I think there is a marked distinction between section 151 and section 152. In section 151 it must be with the consent of the claimant, and a judgment may be rendered under that section that will bind the claimant.

Mr. MANN. Where is the authority to enter judgment? It is to transmit its findings to the department, but there is absolutely no authority under section 151 to enter judgment.

Mr. FLOYD of Arkansas. I want to call the gentleman's attention to section 152, where it says that when the facts and conclusions have been found the court shall not enter judgment, but transmit it to the department for its guidance and action. I think, under section 151, the court has the power to render judgment, because the consent of the claimant is involved.

Mr. MANN. The gentleman will pardon me, but when I get the floor I will show that under existing law the court has authority to enter judgment under the Tucker Act, but under this bill would not, under section 151, have authority to enter judgment.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I admitted on the start that if the gentleman from Illinois could take the decision which has just been read by the gentleman from Pennsylvania, which seems to me to distinguish and differentiate

between these three sections, he might be able to consolidate them if he had the time. I heard only the syllabus read, but it seems to make a distinction between these three sections, and no man should attempt to rewrite these three sections into one without having that opinion before him and carefully reading it. Therefore, I am not in favor of striking out any one of these sections in this haphazard, hasty manner without further consideration. I do not think the motion should prevail.

Mr. COOPER of Wisconsin. Mr. Speaker, I desire to ask the chairman of the committee whether under the language beginning with the word "when," in line 7, page 138—the last sentence of section 152—the head of a department would be justified in taking any action contrary to the findings of fact and conclusions of law reported from the court. The language is this:

> When the facts and conclusions of law shall have been found the court shall not enter judgment thereon, but shall report its findings and opinions to the department by which it was transmitted for its guidance and action.

Now, if the findings of fact and the conclusions of law of the court are for the "guidance and action" of a department chief, can he disregard the findings of fact and the conclusions of law? Plainly, he must follow the findings and conclusions. If he can disregard these, then, what is the use of sending the claim or matter to the court; and if he must not disregard them, then, has not the court in practical effect entered a judgment? It does not actually enter a judgment; but the chief of the department can not do anything except in accordance with what the court has reported as the law and the facts.

Mr. MOON of Pennsylvania. Mr. Speaker, I would say in reply to that that the statements and inference of the gentleman are entirely correct. It was submitted to the Court of Claims for no other purpose than for its guidance and opinion, and, having received it from the court, I do not suppose—and I speak without knowledge—there is any record of an officer of an executive department that has not absolutely acquiesced in the guidance and opinion of the Court of Claims.

Mr. COOPER of Wisconsin. Then we come, do we not, to the fundamental distinction between section 151 and section 152. The concluding paragraph or sentence of section 151 is this:

> When the facts and conclusions of law shall have been found, the court shall report its findings to the department by which it was transmitted.

It omits the words "for its guidance and action." But the words "for its guidance and action" are found in the last sentence of section 152. In other words, section 151 simply requires that the court shall report its findings to the department, while section 152 requires them to be reported for the "guidance and action" of the department.

The department could ignore the findings and conclusions of the court under section 151, or consider them as merely advisory, could it not, if section 152 be retained in the law, because if Congress should enact those two sections in a law, one containing an express requirement that a department chief follow the findings of fact and the conclusions of law and the other containing no requirement of that kind, a fair inference would be that Congress had that distinction in mind in enacting the two sections.

Mr. MANN. Mr. Speaker, I do not know whether this is worth while to try and convince my colleague from Ohio [Mr. DOUGLAS] that the proposition I presented ought to prevail. While he said it was very sensible, he also said that he was going to vote against it.

Mr. DOUGLAS. Seemed to be sensible.

Mr. MANN. I want to call the attention of the House, and especially the attention of the committee, to what would happen if the arrangement that they have here should go through. The Bowman Act is covered in section 152, and provides that the court can make its findings and report its findings to the department, but can not enter judgment. That is section 152. That is the Bowman Act of 1883. This other act of 1887, which is carried in section 151, authorizes the court to do the same thing, but leaves out the prohibition about entering judgment—does not authorize in that section the court to enter judgment—and the court can not enter judgment under that section; but the Tucker Act contains the language in section 154, which authorized the court to enter judgment. The committee has carried section 154 in connection with the Bowman Act, section 152, so that as this bill now reads, you can not enter judgment under section 151, because that is not included in section 154, and although section 154 says the court can enter judgment under the preceding sections, including sections 152 and 153, section 152 says they can not enter judgment. If anybody can explain that to me, it will take a Philadelphia lawyer.

Mr. PARSONS. I will be better satisfied if the gentleman from Illinois will tell me just what is intended by that provision of the Tucker Act, which is in section 154 and which is section 13 of the act, which says that if it shall appear to the satisfaction of the court from the facts established that it has jurisdiction to enter judgment or decree thereon under existing laws, it shall proceed to do so.

Mr. MANN. Yes.

Mr. PARSONS. To what cases does it refer?

Mr. MANN. To any case referred by the head of a department to the Court of Claims. Under section 151 of the Tucker Act, if it appeared in the hearing of that case that it was a proper claim against the Government due under the law, the court should enter judgment under it, but it can not do it the way you have this bill arranged. Now, that was the Tucker Act that gave authority to any judgment, but that authority is not contained in section 13 of the Tucker Act and in section 151 of this act, and when you come to put in the provision authorizing the entering of judgment of this act you do not make it apply to the Tucker Act, but you limit it to sections 152 and 153 of this act, which does not include 151, and 152 says you can not enter judgment.

Mr. PARSONS. I have been puzzled in this matter and I wish to be fully instructed by the gentleman from Illinois. What I wish him to refer me to is the provision of the Tucker Act just referred to, the phraseology of the provision of the Tucker Act which he has referred to in section 13 of the Tucker Act, which is section 154 of this act, which says under the provisions of the Tucker Act the court has jurisdiction to enter judgment. I have found great difficulty in finding out that provision——

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. MANN. Mr. Speaker, I ask for five minutes more.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

Mr. MANN. I think when I read it that probably refers to the Bowman Act authorizing the entry of judgment under the Bowman Act.

Mr. PARSONS. And not under the Tucker Act?

Mr. MANN. And not under the Tucker Act.

Mr. PARSONS. Then the committee was correct in its provisions in section 154 in not having that refer to section 151.

Mr. MANN. Very likely; but was not correct when it said in section 152 that the court can not enter judgment and in section 154 that it can enter judgment on the same state of facts. Now, I suggest to the gentleman, if the committee is willing to take the suggestion——

Mr. PARSONS. The gentleman has now eliminated 151 from the authority on which he is instructing the committee——

Mr. MANN. I am not endeavoring to instruct the committee at all.

Mr. PARSONS. Well, to enlighten the committee, then.

Mr. MANN. I do not know whether that is possible or not.

Mr. PARSONS. The gentleman has succeeded in enlightening himself in his efforts to enlighten the committee.

Mr. MANN. I have succeeded in enlightening the committee to this extent, that it says in section 152 the court shall not enter judgment thereon and in section 154 that the court may enter judgment thereon, precisely in the same cases. Maybe that does not enlighten the committee, but I think it probably does the House. I do not know just how the court would construe if it was in the same statute that the court can enter judgment in the case and it can not enter judgment in the case. Which will the court do? Now, I suggest to the gentleman that he has got to a point where perhaps he is willing to accept a suggestion—I think he has—that section 152 covers every authority which can be granted for the transmission of cases from the department to the Court of Claims, and it covers all cases that are covered in section 148, because it covers all cases that are covered in section 151, because it covers cases both with and without the consent of the claimant; but the difficulty is it says the court shall not enter judgment thereon, and if section 152 be left in and in connection with 154 that lines 7, 8, and 9 be made to read:

> When the facts and conclusions of law shall have been found the court shall report its findings and opinions to the department by which it was transmitted for its guidance and action.

Section 154 giving the authority to enter judgment, you have covered every contingency which can arise, and can eliminate section 158 and section 151. They ought not to have three sections covering the same case.

Mr. PARSONS. Mr. Speaker——

The SPEAKER pro tempore. Does the gentleman from Illinois yield the floor?

Mr. MANN. Certainly.

Mr. PARSONS. My construction of this matter is, that section 154, allowing the Court of Claims to enter judgment in cases referred to in section 152, means that it can enter judgment only in such cases as are provided in section 152 as the court is given jurisdiction of under section 144, which is the jurisdictional section of the court. Now, these sections are very much involved, but what the committee has done is this: It has borne in mind the fact that a person who has a claim against the Government is almost hopeless, and that nothing should be done which would take away from him any remedy he may have whereby he may get a judgment, because if he gets a judgment, then appropriation will be made therefor or interest will be paid. For that reason, if there is any doubt, section 148 ought to be continued in the act, because that provides for a judgment of the Court of Claims.

The SPEAKER pro tempore (Mr. TILSON). The question is on agreeing to the amendment.

Mr. MOON of Pennsylvania. Will the Clerk please again report the amendment?

The Clerk read as follows:

Strike out section 148.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 151. [When any claim or matter may be pending in any of the executive departments which involves controverted questions of fact or law, the head of such department, with the consent of the claimant, may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to the Court of Claims, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law shall have been found, the court shall report its findings to the department by which it was transmitted.]

Mr. MANN. Mr. Speaker, I move to strike out the section. I do not know as it is of any use. The committee claims it has given great consideration to this question, but any boy with a paste pot could have given equal consideration to it. All in the world they have done is to clip out sections and insert them in here. The same is true with other sections in relation to the Court of Claims. They have twice in the bill provisions that the House of Representatives may refer a case to the Court of Claims, as though we emphasized it. They have three times in the bill a provision that the head of a department can refer a case to the Court of Claims, as though we emphasized that. I do not know why they limited it to three times. Why not say five times? Some of the departments need to be told ten times before they get a think through their heads, and the committee might need to be told oftener before they could understand this. There is no distinction between section 151 and section 152. There is no man on earth that can distinguish between the two.

Mr. PARSONS. Did not the part referred to by the gentleman from Pennsylvania [Mr. MOON] distinguish between the two?

Mr. MANN. The gentleman from Pennsylvania began by saying that there was a distinction, but he did not say so to the House. It can not be distinguished. If section 154 means anything, then section 151 is the same thing. It is true that the committee says in section 152 that the court can not enter judgment in a case, and in section 154 they can enter judgment in the same case. But there is no other distinction between section 151 and section 152, unless the distinction exists that was referred to by the gentleman from Wisconsin, that under 151 the department was not obliged to follow the findings of the court and under section 152 they are obliged to follow them. I would suggest to the committee that if they can find any other obsolete laws referring to the Court of Claims, as suggested by the gentleman from Georgia [Mr. BARTLETT], they ought to incorporate those in here.

Mr. COOPER of Wisconsin. Will the gentleman from Illinois permit a question?

Mr. MANN. Certainly.

Mr. COOPER of Wisconsin. To go back a little, as I was not in when section 148 was first taken up, I desire to ask if the phraseology in the first line of section 148 was discussed. I refer to the expression "whenever any claim is made against any executive department."

A claim is not made against a department. Claims are against the Government, though pending in a department. A claim for money must, if paid at all, be paid out of the United States Treasury, and is, of course, a claim against the Government.

Mr. FLOYD of Arkansas. Mr. Speaker, the gentleman from Illinois says he can see no distinction between sections 151 and 152. Now, if you construe these sections in connection with the law in which they were originally embraced you will see a marked distinction. Section 151 provides that the executive departments may submit matters involving controverted questions of fact or law to the Court of Claims with the consent of the claimant. That corresponds to section 12 of the Tucker Act. Now, immediately following section 12 in the Tucker Act is section 13, which reads as follows:

That in every case which shall come before the Court of Claims, or is now pending therein, under the provisions of an act entitled "An act to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government," approved March 3, 1883, if it shall appear to the satisfaction of the court upon the facts established that it has jurisdiction to render judgment or decree thereon under existing law or under the provisions of this act, it shall proceed to do so.

Mr. MANN. That is the Bowman Act.

Mr. FLOYD of Arkansas. I am reading from the Tucker Act.

Mr. MANN. Yes; but that refers to the Bowman Act.

Mr. FLOYD of Arkansas. The act refers to the Bowman Act and also the Tucker Act, for it provides that—

If it shall appear to the satisfaction of the court, upon the facts established, that it has jurisdiction to render judgment or decree thereon under existing laws or under the provisions of this act, it shall proceed to do so.

That is, proceed to render judgment; but under section 152 the opinion rendered is for the mere guidance of the department without any power to render judgment. I think the gentleman from Illinois is eminently correct in his statement a few moments ago in regard to his criticism of the use of the words "two sections last preceding," in section 154. I think that in section 154 the words used should refer to section 151 and not to section 152, because 152 provides that no judgment shall be rendered, while 151 corresponds to section 12 in the original act, which provides in section 13 that judgment may be rendered by the Court of Claims in cases named in the preceding section. I think that section 154 ought to be amended so as to say the three last preceding sections. Otherwise you repeal that part of the Tucker Act which authorizes judgment in cases of this kind.

Mr. NORRIS. The gentleman stated that 151 permitted the rendition of a judgment.

Mr. FLOYD of Arkansas. Not that section, but the succeeding section. I take it that section 12 in the original Tucker Act corresponds to section 151 in this bill——

Mr. MANN. But if the gentleman will pardon me——

Mr. FLOYD of Arkansas (continuing). And section 13, immediately following section 12 in the original act, does provide for rendering judgment.

Mr. NORRIS. The section we are now considering—section 151—does not provide for the rendition of any judgment.

Mr. FLOYD of Arkansas. I understand that; but the section immediately following it in the original law does.

Mr. MANN. But the original law is repealed when this act goes into effect.

Mr. FLOYD of Arkansas. That is what I am opposed to. I am speaking in opposition to this motion for that reason.

Mr. NORRIS. That would not help you any, if you defeat this motion. This motion ought to be carried, for section 151 and 152 are the same, otherwise——

Mr. FLOYD of Arkansas. They are not the same.

Mr. NORRIS. In effect, they are.

Mr. FLOYD of Arkansas. I contend that under section 151 you must have the consent of the claimant in order to give the court jurisdiction. Under section 13 of the original act, when by consent of the claimant the court takes jurisdiction, the judgment of the Court of Claims is binding upon the parties, while section 152 is merely for the guidance of the department.

Mr. NORRIS. Section 151 permits them to refer it with the consent of the claimant. Now, if the claimant does not consent, then they will simply refer it under section 152. It does not need the consent of the claimant, so what is the use of having section 151?

Mr. FLOYD of Arkansas. The court has no power to render judgment without the consent of the claimant.

Mr. NORRIS. They can refer it anyway, if they want to.

Mr. FLOYD of Arkansas. In order that the Court of Claims may render judgment the consent of the claimant must be obtained.

Mr. NORRIS. They can not render judgment under section 152.

Mr. FLOYD of Arkansas. Not under that section separately; but, taking the sections of the original act together, they can render judgment in certain cases.

Mr. MANN. They can not under section 151 either.

Mr. FLOYD of Arkansas. Section 13 of the original Tucker Act corresponds almost identically with section 154 of this act, except by using the words—

In the two sections last preceding.

Which eliminates the very section that it originally referred to.

Mr. MANN. Certainly; that is what I called attention to.

Mr. FLOYD of Arkansas. It repeals the existing law in that respect, and that is why I am resisting the motion of the gentleman from Illinois, and I have already stated that the gentleman from Illinois was eminently correct in his contention as to the effect of it.

Mr. MANN. If the gentleman will yield, I want to say that he will accomplish the purpose by striking out section 151 and striking out of section 152 the provision that the court shall not enter judgment. Section 151 originally was carried with section 13 of the Tucker Act authorizing the entry of judgment.

Mr. FLOYD of Arkansas. I beg to differ with the gentleman on his proposition. The gentleman said that the same thing could be accomplished by striking out the words "the court shall not enter judgment." The court could not enter judgment without having jurisdiction over the person of the party, and unless you leave in the words "consent of the claimant" there would be no power to render judgment.

Mr. MANN. If the claimant does consent, the court has jurisdiction, and under section 154 can enter judgment. The court could enter judgment now under the Bowman Act and under section 13 of the Tucker Act, if the court has jurisdiction of the party, which, of course, it may or may not acquire under section 152. Section 152 covers both cases, whether the claimant consents or does not consent. If the court has jurisdiction, then, under section 154 and section 152 the court can enter judgment.

Mr. FLOYD of Arkansas. I would suggest to the gentleman from Illinois that I think the law would be left in much better condition if he would move to strike out section 152 and leave section 151 alone.

Mr. MANN. But section 152 is broader than section 151. In section 151 a case can only be referred on the consent of the claimant, but under section 152 the department can refer any claim without the consent of the claimant. If the claimant consents and enters his appearance in court the court gets jurisdiction and the court can enter judgment.

Mr. FLOYD of Arkansas. Does the gentleman from Illinois, as a lawyer, insist that the department on its own motion can refer a claim and can get a judgment that will bind the claimant? Is not the jurisdiction over the claimant necessary to render a judgment that will bind him? Section 152 is for the guidance of the department.

Mr. MANN. The gentleman forgets section 154, which says that if it shall appear to the satisfaction of the court upon the facts established that it has jurisdiction to render judgment or decree thereon under existing laws it shall proceed to do so.

Mr. FLOYD of Arkansas. That is in conflict with section 152.

Mr. MANN. I understand; but my suggestion was to strike out section 151 and leave out of section 152 the power to render judgment.

Mr. PARSONS. Mr. Speaker, this section allows judgment to be entered if the claimant consents. The next section allows the department to do what this section does, refer the claim, but does not allow judgment to be entered except in the case referred to later on in section 154, which is section 13 of the Tucker Act and which the gentleman from Illinois agreed did not refer to section 151, but to section 152.

Mr. MANN. I beg the gentleman's pardon; I did not agree to that.

Mr. PARSONS. The reporter's notes will show.

Mr. MANN. If the reporter's notes show that, they show that the reporter is not correct or that I was in error.

Mr. PARSONS. My recollection is quite distinct. Now, under section 13 of the Tucker Act, which is section 154 of the bill, the Court of Claims can enter judgment in the cases provided for by section 152; that is, cases referred by the department whether the claimant consents to the reference or not. The Court of Claims can enter judgment in such a case if it is a case as to which it would have jurisdiction to enter judgment. Now, to what does that refer? That refers to section 144—the jurisdictional section of the Court of Claims—the section that sets forth when claimants may go into the Court of Claims. It is perfectly fair to say that in a case where the claimant could go into the Court of Claims the head of the department can refer the matter to the Court of Claims, and the Court of Claims can enter judgment whether the claimant wants it referred or not, because he could go into the court in the first place.

But in a case such as might arise under section 151, as to which the claimant could not go into the Court of Claims originally, it is not fair to say that the case can be referred by the head of the department and a judgment entered, unless, as the section provides, the claimant consents. Therefore the gentleman's amendment should be defeated.

Mr. MANN. Will the gentleman yield for a question?

Mr. PARSONS. Yes.

Mr. MANN. Will the gentleman tell what the language means in section 152, that the court shall not enter judgment thereon? Does it mean what it says, or is that used in a Pickwickian sense?

Mr. PARSONS. It means what it says.

Mr. MANN. What does the language mean in section 154, referring to section 152, that the court shall or may render judgment or decree thereon?

Mr. PARSONS. That harmonizes with section 152. If the gentleman is so anxious about the language in line 8, on page 138, we can put in an exception saying, "shall not enter judgment thereon except as provided for in section 154."

Mr. MANN. I am not so anxious. I am trying to get at the meaning of the two propositions.

Mr. PARSONS. The meaning of that last sentence in section 152 is that it is advisory. That is the language used by the Supreme Court of the United States in the case of New York against United States (161 U. S., 1000).

Mr. MANN. Does it mean that it can or can not enter judgment?

Mr. PARSONS. It means it can not unless it is a case provided for by section 154, as to which the court would have original jurisdiction at the request of the claimant.

Mr. MANN. Then, if the court has jurisdiction over the parties, that does not mean anything; that it shall not enter judgment. It can enter judgment?

Mr. PARSONS. It can in that case provided for in section 154.

Mr. MANN. Those are the same cases provided for by section 151.

Mr. PARSONS. Not the same.

Mr. MANN. What is the difference?

Mr. PARSONS. Some of them the same, but not all.

Mr. MANN. Can the gentleman name any kind of a case where you can or can not enter judgment under section 151 that you can in the other case?

Mr. PARSONS. I have not investigated that recently, but if the gentleman will compare section 144 with section 152 he can probably think of a case. He is very fertile.

Mr. MANN. I am somewhat fertile in such matters, and I have used all of the fertility that the soil has, but have been unable to extract any distinction between the two cases, and the gentleman has not stated any to the House, and no man can by dreaming or keeping awake find any difference between section 151 and section 152, combined with section 154, because there is not any that exists. The committee having made an error, professing that it does not have any pride of opinion, insists on maintaining an error in the law which will cause infinite trouble to claimants against the Government.

Mr. LONGWORTH. It will afford employment for lawyers.

Mr. MANN. It will be assumed, however, and it will be a violent assumption, by the court that Congress, which enacted on the same day three provisions on the same subject, meant to have a distinction between them, and it will take the Court of Claims all of its time, with the aid of the best lawyers, to find any distinction between these, and yet they must find distinctions, because they can not assume that the Members of the legislative branch of the Government would make ninnies of themselves.

Mr. BUTLER. If we adopt all three of the provisions, so that this assumption might not be drawn by the court, would it be well to write in here just exactly what the gentleman has said, that we do not understand there is any distinction, but we have simply inserted the paragraphs——

Mr. MANN. But the court is not permitted to take the debates in Congress and pay any attention to them—fortunately for the courts.

Mr. MOON of Pennsylvania. Just a word in conclusion of this long debate, Mr. Speaker. It has already been demonstrated, I think, to the satisfaction of every Member of this House that all three of these provisions are in force and each is intended to and does accomplish specific purposes; that they refer to special classes of cases. Now, it may be and probably is true that this House can perfect them by consolidating them, but it does seem to me that all this extended debate is useless. If it is found that it is the opinion of this House that sections 151 and 152 should be consolidated, this House can easily do it and this committee will make no objection to it. In these cases we found that the Supreme Court had decided that each section covered specific cases, and because of that we did not

take the responsibility of eliminating any of them. The question of claims by the citizens of the United States against the Government is a broad and diverse one, but if the gentleman moves to strike out 151 and so amend 152 as to cover all classes of cases I, for one, shall not oppose it; but while we are always disposed to listen to the facetious remarks of the gentleman from Illinois, and while we all greatly enjoy his witticisms and criticisms, and he does like to criticize every other committee except his own, I know him well enough to know he does not mean any unkindness. He is obsessed with the idea there is only one committee of the House of Representatives that can present a bill upon the floor of this House that is absolutely perfect.

Mr. MANN. There is only one that does. [Laughter.]

Mr. MOON of Pennsylvania. Of course, the time may come when the opinion of the gentleman from Illinois is the unanimous opinion of this House; it is not now. Now, therefore, I repeat what I said before, the committee has no pride of authorship, because it is not responsible for these provisions or for their language. We took the law as we found it. We found that the Supreme Court had expressly decided these three sections covered three separate distinct classes of cases, and we carried them in the bill. Now, the gentleman from Illinois has shown, in my judgment—and I am willing to concede to him sometimes—that those two may be consolidated with advantage. He does say, and it is true, that 152 is broader than 151, because 151 limits the submission to the consent of the parties. One hundred and fifty-two gives the department the right to refer without the consent of the parties, and therefore it includes the case where it refers with the consent of the parties. It may be true that the language seems a little incongruous in 152 when it says it shall not enter judgment, and in 154, which says that in some cases it may; but an examination of the section shows that there are some cases that may be referred under section 151, where judgment can not be entered, and some cases which, when referred and examined, may present to the court jurisdictional facts that may authorize them to hear and finally determine them; and 154 therefore provides that, upon due notice to the parties and an opportunity to be heard in the narrow class of cases, the court may enter judgment, but we may make this clearer, and I say I welcome the suggestions of the gentleman from Illinois in helping to consolidate these two, and I believe they may be consolidated with advantage; but I sincerely trust we shall not spend any more time upon them, and I would like the gentleman to make a motion. I think the gentleman did.

Mr. MANN. Mr. Speaker, I moved some time ago to strike out the section. That is the only way they can be consolidated that I can see. Now, Mr. Speaker, it frequently happens I get the same kind of a good-natured lecture from the chairman of some committee, because I point out some of the manifest errors of a bill which such gentleman brings in, and which, if he would read it himself, he would not need anybody else to point out. The gentleman is mistaken about one thing. I stood on the floor of this House at the last session in charge of a bill that took more time than any other bill, with more amendments offered to it than were offered to any other bill during this Congress, and no one ever heard a word of complaint or criticism from me because gentlemen criticized that bill and offered amendments to it. I know the position of a chairman in charge of a bill on this floor. It it is not a good thing for such a chairman to get angry and make complaint because somebody else differs from him, but whenever I came upon the floor of the House with a bill I recognized the fact that it is the right of every Member of the House to find fault with the bill or make complaint against its provisions, or offer amendments to it, or make suggestions. And no one has ever heard me utter the slightest complaint, when in charge of a bill, when gentlemen went after the bill, jumped onto it, and riddled it with amendments. That is a province of the House and their right, and I respect it. I get somewhat tired of having men come into the House in charge of bills that are so full of manifest loopholes that anyone who would read them would find them, and then complain because Members of the House call attention to them. I called attention here to the fact that three provisions of this bill meant the same thing, and if the gentleman had read them he would have known it; that is, if he had read them recently. It is my business to call the attention of the House to this, and it is the business of the House to determine what it will do.

The SPEAKER pro tempore (Mr. OLMSTED). The question is on the amendment to strike out the section.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 152. When a claim or matter is pending in any of the executive departments which may involve controverted questions of fact or law, the head of such department may transmit the same, with the vouchers, papers, proofs, and documents pertaining thereto, to said court, and the same shall be there proceeded in under such rules as the court may adopt. When the facts and conclusions of law shall have been found, the court shall not enter judgment thereon, but shall report its findings and opinions to the department by which it was transmitted for its guidance and action.

Mr. COOPER of Wisconsin. Mr. Speaker, I offer an amendment, which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Wisconsin offers an amendment, which the Clerk will read.

The Clerk read as follows:

In line 5, page 138, strike out the words "said court" and in lieu thereof insert the words "the Court of Claims."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. DOUGLAS. Mr. Speaker, in lines 8 and 9, I move to strike out the words "not enter judgment thereon, but shall," so it will read:

When the facts and conclusions of law shall have been found, the court shall report its findings and opinions to the department—

And so forth.

The SPEAKER pro tempore. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 138, lines 8 and 9, strike out the words "not enter judgment thereon, but shall."

Mr. MANN. Mr. Speaker, I wonder if it is possible that the committee has concluded that it did not make an error.

Mr. PARSONS. The committee reported the existing law. The effect of this amendment, as I suggested to the gentleman before, perhaps makes the language a little more harmonious in the section, but will not change the meaning, and, instead of offering the amendment itself, the committee will be glad to have the gentleman from Ohio [Mr. DOUGLAS] offer it, in order to show that the committee will be glad to receive suggestions.

Mr. MANN. The fact is the committee did not report existing law. The Bowman Act when passed provided the court should not enter judgment, and when the Tucker Act passed it provided that under the Bowman Act the court could enter judgment.

Mr. PARSONS. Should enter judgment.

Mr. MANN. It provided it could enter judgment. That was the law. And the committee did not examine the two provisions of the statute side by side, but took the paste pot and put them into this bill, and did not find the difference in the provisions.

Mr. PARSONS. I beg to differ with the gentleman from Illinois on that, please. It was very perplexing to the committee, and the committee spent a long time on it.

Mr. MANN. If the committee spent a long time on it, I apologize to the committee, but I can not understand how the committee could say it was existing law that the court could not enter judgment and at the same time could enter judgment. The law saying it could not enter judgment under the Bowman Act was repealed by the Tucker Act.

Mr. PARSONS. Will the gentleman point out where in the Tucker Act the provision of the law that judgment should not be entered under the Bowman Act was repealed?

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. DOUGLAS].

Mr. COOPER of Wisconsin. Mr. Speaker, I ask unanimous consent to have the amendment again reported.

The amendment was again read.

Mr. MANN. May I ask the gentleman what is the difference between sections 151 and 152?

Mr. DOUGLAS. I do not think there is any.

Mr. MANN. The Committee can work a while now and find out what the distinction is.

Mr. MOON of Pennsylvania. The committee have not any difficulty in finding that distinction. The gentleman seems to-day to be disposed——

Mr. COOPER of Wisconsin. I want to make one suggestion to the gentleman from Ohio. I think he ought to add something to his amendment. This language is:

When the facts and conclusions of law shall have been found, the court shall report its findings and opinions.

You ought to substitute "conclusions of law" there for the word "opinions."

Mr. DOUGLAS. I think not. This is the language of the original section. That has been construed by the court.

Mr. COOPER of Wisconsin. Then you should not use the language in line 7. What justification does the gentleman have

for requiring the court to ascertain the facts and conclusions of law and then ask it to report its findings and opinions?

Mr. DOUGLAS. I did not mean, I assure the gentleman from Wisconsin [Mr. COOPER], to be in the slightest degree discourteous. It seems to me, when the facts and conclusions of law have been found, then the court shall report its findings, which, in my judgment, are its conclusions of law, for I know of no other report on the facts than conclusions of law.

Mr. COOPER of Wisconsin. Well, I know, but it would be a much more accurate use of language to have the words always express the same thing when repeated in the same paragraph. If the gentleman means "conclusions of law," in line 7, and means conclusions of law where he uses the word "opinions," in line 9, then the words should be "conclusions of law" in both places. The ordinary statutory requirement is that the court shall make and file its findings of fact and conclusions of law.

Mr. DOUGLAS. The gentleman will notice that this is a rather peculiar provision. It is not that the court render judgment. It is simply that the opinion goes to the department for its guidance, and therefore I think the language is well enough.

Mr. COOPER of Wisconsin. I offer an amendment, to strike out the word "opinions" and insert the words "conclusions of law," the customary language of statutes.

The SPEAKER pro tempore. The Chair will state that this is not an amendment to the amendment, but would be in order as an independent amendment when the amendment offered by the gentleman from Ohio shall have been disposed of. The question is on the amendment offered by the gentleman from Ohio.

Mr. BARTLETT of Georgia. Is that to strike out the word "not?" Is that all there is of it?

The SPEAKER pro tempore. If there be no objection, the Clerk will again report the amendment.

The Clerk read as follows:

In lines 8 and 9, on page 138, strike out "not enter judgment thereon, but shall," so that it will read, "the court shall report its findings," etc.

The SPEAKER pro tempore. The question is on this amendment.

Mr. KEIFER. Mr. Speaker, I understand it is the contention of some gentlemen here that sections 151 and 152 are exactly alike. It seems that under section 151 the claims are referred only with the consent of the claimant. Under section 152 the department does not need to have the consent of the claimant to refer the claim. Now, in section 151 it is provided in the last sentence that after the conclusions of law shall have been found the court shall report its findings to the department, whatever they may be. I do not know why the gentleman desires to have a different provision in section 152.

Mr. MOON of Pennsylvania. Because in section 154 we do provide that under section 152 the court may render final decision. You will see that in section 154 we refer to the two preceding sections.

Mr. KEIFER. Then you strike out the words "the court shall not enter judgment."

Mr. MOON of Pennsylvania. Yes.

Mr. KEIFER. It says—

But shall report its findings and opinions.

The query with me is, Why have anything further than in section 151?

Mr. MOON of Pennsylvania. I do not care to consume any more time in explaining that. In the one case it is referred with the consent of the claimant and in the other case without.

Mr. KEIFER. I have already stated that. But why do you want a different finding in section 152? It says:

Shall report its findings and opinions.

Mr. MOON of Pennsylvania. We have gone over this so thoroughly that I hesitate to speak again on the subject.

Mr. KEIFER. There seems to be some embarrassment about knowing what it is.

Mr. MOON of Pennsylvania. No; not at all. I trust the gentleman from Ohio has been here and heard the debate on this matter.

Mr KEIFER. I have not been here.

Mr. MOON of Pennsylvania. Then I do not think the gentleman ought to ask us to go over it again.

Mr. BUTLER. Why not let us pass this over without prejudice until next week?

Mr. KEIFER. It would have taken but a minute, if there had been any good reason for doing this, to have stated it. You propose here to have a "finding" and "opinions." What is the difference?

Mr. MOON of Pennsylvania. We have gone over that before.

Mr. KEIFER. And know nothing about it.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. DOUGLAS].

The question being taken, the amendment was rejected.

The SPEAKER pro tempore. The question is on the amendment of the gentleman from Wisconsin, which will be reported by the Clerk.

Mr. DOUGLAS. Mr. Speaker, I demand a division.

SEVERAL MEMBERS. Too late.

Mr. MOON of Pennsylvania. Regular order!

The SPEAKER pro tempore. The gentleman was not on his feet asking for a division. The Clerk will report the amendment of the gentleman from Wisconsin [Mr. COOPER].

The Clerk read as follows:

In line 9, page 138, strike out "opinion" and in lieu thereof insert "conclusions of law."

The question being taken, the Speaker pro tempore announced that the noes appeared to have it.

Mr. COOPER of Wisconsin. Division!

The house divided; and there were—8 ayes and 15 noes.

So the amendment was rejected.

Mr. PARSONS. Mr. Speaker, I move to amend by inserting after the word "thereon," line 9, the words "except as provided in section 154."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

After the word "thereon," in line 9, page 138, insert the words "except as provided in section 154."

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 154. In every case which shall come before the Court of Claims, or is now pending therein, under the provisions of *the two sections last preceding*, if it shall appear to the satisfaction of the court, upon the facts established, that it has jurisdiction to render judgment or decree thereon under existing laws, it shall proceed to do so, giving to either party such further opportunity for hearing as in its judgment justice shall require, and report its proceedings therein to either House of Congress or to the department by which the same was referred to said court.

Mr. FLOYD of Arkansas. Mr. Speaker, I move to amend, on page 139, line 1, after the word "of," by striking out the words "the two sections" and inserting in lieu thereof the words "section 151 and the section."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

On page 139, line 1, after the word "of," strike out the words "the two sections" and insert in lieu thereof the words "section 151 and the section."

Mr. FLOYD of Arkansas. Mr. Speaker, it seems to me that by the adoption of this amendment all the difficulties in these sections that we have been discussing would be relieved. Section 151 is a part of the Tucker Act and section 154, immediately following, is section 13 of the Tucker Act, which provides for rendition of judgment. Section 152 in the original act provides that no judgment shall be entered, and it is provided in this bill that no judgment shall be entered, and the sections will be made to harmonize and all conflicts will be removed by this amendment.

The amendment would then read as follows:

SEC. 154. In every case which shall come before the Court of Claims, or is now pending therein, under the provisions of section 151 and the section last preceding, if it shall appear to the satisfaction of the court, upon the facts established, that it has jurisdiction to render judgment or decree thereon under existing laws, it shall proceed to do so, giving to either party such further opportunity for hearing as in its judgment justice shall require, and report its proceedings therein to either House of Congress or to the department by which the same was referred to said court.

Mr. MADISON. Will the gentleman yield?

Mr. FLOYD of Arkansas. Certainly.

Mr. MADISON. Why does the gentleman have the words "the last preceding section" in his amendment? Does the gentleman take the position that because a party files a claim before a committee of the House of Representatives or the Senate, or has a claim pending before Congress, that he can by reason of the fact be taken into a court and compelled to litigate his claim and the matter go on to judgment?

Mr. FLOYD of Arkansas. Certainly not.

Mr. MADISON. Is not that the effect of leaving the words "the last preceding section" in the gentleman's amendment? I quite agree with the gentleman——

Mr. FLOYD of Arkansas. If the gentleman will allow me, I want to explain that. The last preceding section is section 153, which authorizes claims to be referred by the Senate or House of Representatives to the Court of Claims. Under sec-

tion 13 of the original act referred to, the court has jurisdiction to render judgment under existing law. My object in referring to sections 151 and 153 is simply to make the law consistent, and to give the court jurisdiction by this amendment to render judgment in same cases that they have jurisdiction over under the original Tucker and Bowman Acts, and no other. They have jurisdiction under the Tucker Act to render judgment in certain cases, but by the amendment I propose they could render judgment in cases under 151 of this act where it is a departmental reference, and under section 153 of this act when it is a reference by the House or by the Senate.

Mr. MADISON. I understood the gentleman's position awhile ago to be this, that a person filing a claim before an executive department, that claim can not, without his consent, be taken into a court and the matter be litigated to final judgment.

Mr. FLOYD of Arkansas. The gentleman understood me correctly, and I still so insist.

Mr. MADISON. Now, then, the material words in section 151 are these words, "with the claimant's consent," because that is the thing that gives the Court of Claims jurisdiction to go ahead and adjudicate the matter, determine the matter, go on to final judgment. Those are the material words in that section. We agree on that proposition. Now, then, these other sections that have been quarreled over this aftrenoon are sections where the Congress is mentioned, where a claim was filed before a department or a committee, that for the advice of the department or the members of the committee or the House, the matter might be sent to the Court of Claims—not for adjudication, not for final determination, not for judgment, but merely for the guidance of these persons or the committees. There is a vast distinction there, and I think the fault of the committee has been in putting section 154 where it is. Section 152 ought to follow 154 and not precede it, because by preceding it the error is made.

Mr. PARSONS. Will the gentleman yield for a question?

Mr. MADISON. The gentleman from Arkansas has the floor.

Mr. FLOYD of Arkansas. I will yield for a question.

Mr. PARSONS. Does not section 13 of the Tucker Act, which is section 154 of this act, specifically refer to the Bowman Act, which is section 152, when it says that the court may enter judgment in certain cases?

Mr. FLOYD of Arkansas. Well, it refers to that portion of the Bowman Act wherein the rendition of judgment is authorized. I am not prepared to answer the direct question whether it refers to a particular section or not, but it refers to the Bowman Act in such cases as judgment may be rendered in under the Bowman Act. But gentlemen are diverting me from my purpose. I have an amendment which I think will harmonize these several sections without destroying the effect of any one of them. I contend that the purpose of section 152 is merely for the guidance of the department, that no judgment can be rendered—the department submits a question of law or of facts to the Court of Claims for their opinion, and when their opinion is rendered it is for guidance, but under 151, which is a part of the Tucker Act, and under 153, which is also a part of existing law, it is provided that these cases may be transferred to the Court of Claims by the head of a department or by the Congress, by either the House or the Senate, and when so referred the court under certain conditions and in certain classes of cases can enter judgment, and that judgment being given by the consent of the parties, the court having jurisdiction over the person, is a binding judgment; and I know of no principle of law anywhere where a department or Congress or any other tribunal can refer a man's claim without his consent to a court that is without any jurisdiction over him and have it render a binding judgment. I see no conflict in these sections if you consider them in that way, and the purpose of my amendment is simply to remove such apparent conflict.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that his time be extended for five minutes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. FLOYD of Arkansas. If the gentleman from New York [Mr. PARSONS] will give me his attention, I think I can make clear my position. Under section 154, as drafted, there are some new words inserted in italics, "the two sections last preceding," which are not in the existing law. Those are new words.

Now, instead of applying to the two last preceding sections, my contention is that this provision should apply to section 151 and to the last preceding section and not to 152, and my amendment proposes to strike out the words "two sections" and insert in lieu thereof the words "section 151 and the last preceding section," which leaves it within the power of the court, under section 151, to render judgment in certain cases, as under the present law, and also under section 153 to render judgment in such cases as provided for in existing law, but giving them no power to render judgment under section 152, and that provision, as written, plainly declares they shall not enter judgment.

Mr. PARSONS. Is the gentleman trying to conform the sections to existing law?

Mr. FLOYD of Arkansas. To make them harmonious; that is my sole purpose.

Mr. PARSONS. Is the gentleman trying to conform the sections to existing law?

Mr. FLOYD of Arkansas. To the Tucker Act.

Mr. PARSONS. Yes. I will read:

That in every case that shall come before the Court of Claims, or is now pending therein, under the provisions of an act entitled "An act to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government," approved March 3, 1883——

Mr. FLOYD of Arkansas. That is the Bowman Act.

Mr. PARSONS. This is sections 152 and 153:

If it shall appear to the satisfaction of the court, upon the facts established, that it has jurisdiction to render judgment or decree thereon under existing laws or under the provisions of this act, it shall proceed to do so, giving to either party such further opportunity for hearing as in its judgment justice shall require, and report its proceedings therein to either House of Congress or to the department by which the same was referred to said court.

That section specifically refers to the Bowman Act, section 152 here.

Mr. FLOYD of Arkansas. No; section 152 here refers to section 12 of the Tucker Act.

Mr. PARSONS. No; section 151.

Mr. FLOYD of Arkansas. I beg your pardon, section 151.

Mr. PARSONS. Now, section 152 refers to the Bowman Act and so does section 153, which was section 13, which says that in certain cases arising under the Bowman Act the court may enter judgment. If that section is to be brought into this revision it must refer to the two preceding sections, which are the Bowman Act.

Mr. FLOYD of Arkansas. Section 12 of the Tucker Act is section 151 of this act. The section you have just read provides that they can enter judgment under the Bowman Act or under this act, and where it uses the words under this act it refers to the preceding section 12, which is verbatim section 151 of this act.

Mr. PARSONS. In the Tucker Act judgment must be rendered——

Mr. FLOYD of Arkansas. Certainly; that is all I am contending for.

Mr. PARSONS. That is not necessarily so in every case.

Mr. FLOYD of Arkansas. No; it not so in every case, but it refers to such cases, both under the Tucker and Bowman Acts, wherein it is provided for rendering judgment, and there is no power to render judgment under section 152. It was intended for the advice and guidance of the department, and my amendment proposes to harmonize this proposed bill with the existing law, so it would not repeal or modify existing law, but give the court power to enter judgment in the same cases hereafter that it has to render judgment under the existing law. This amendment, I think, will accomplish that purpose, and it will not conflict with section 152 in that respect.

Mr. MANN. Does the gentleman really think the authority under the Tucker Act depends on section 13 of that act?

Mr. FLOYD of Arkansas. Well, it provides judgment may be entered——

Mr. MANN. It provides judgment may be entered in all cases, but only in cases brought under the Bowman Act.

Mr. FLOYD of Arkansas. I can not go into the details of that act.

Mr. MANN. It says in every case which shall come before the Court of Claims and included under the provisions of an act, and so forth. Does not that refer to the Bowman Act?

Mr. FLOYD of Arkansas. Of this act?

Mr. MANN. Oh, no.

Mr. FLOYD of Arkansas. Read it.

Mr. MANN. I will read it if it will not take up too much of the gentleman's time.

Mr. FLOYD of Arkansas. I do not want the gentleman to take up all the time.

Mr. MANN. That it has jurisdiction to render judgment under existing law under the provisions of this act.

Mr. FLOYD of Arkansas. If it has jurisdiction, it can render judgment under existing law.

Mr. MANN. That is what I am contending for. If it has authority to render judgment under the Bowman claims act, then certainly the authority to render judgment under the Tucker Act does not depend upon section 13.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Arkansas [Mr. FLOYD].

Mr. MANN. Mr. Speaker, I would like to be heard on the amendment. For a moment I thought I was mistaken in reading sections 153 and 155 of the act. Section 154, which is now before the House, depends on section 153. Section 153 provides:

Whenever a claim or matter is pending before any committee of the Senate or House of Representatives, or before either House of Congress, which involves the investigation and determination of facts, the committee or House may cause the same, with the vouchers, papers, proofs, and so forth, to be transmitted to the Court of Claims.

That seems to give the House authority to send any matter or case pending before it, or before any committee, to the Court of Claims. Section 155 provides:

Whenever any bill, except for a pension, shall be pending in either House of Congress providing for the payment of a claim against the United States—

and so forth—

the House may refer such bill to the Court of Claims.

The House can do it in the one case or it can do it in the other case. What is the use of having two sections?

Mr. PARSONS. In the first section the House or a committee of the House can do it in the case of a contract; in the second section it extends not only to the case of a contract but to the case of a grant, gift, or bounty, and there only the House can do it.

Mr. MANN. It says:

Whenever any claim or matter is pending before any committee of the House or Senate.

If that is the case, where is it in the section? I think the gentleman is mistaken about that. There is no reference to a contract in that section at all, or any limitation as to a contract.

Whenever any claim or matter is pending before any committee of the Senate or the House, or before either House of Congress, which involves the investigation or determination of facts, they may refer—

And so forth. Those two sections ought to be consolidated in some way. There never has been, in my experience, a member of the Committee on War Claims who was able, in reference to a claim in the House, to clearly define the distinction between referring a bill under the Tucker Act and under the Bowman Act. I do not believe the man lives who can make the proper distinction which applies to all cases.

Of course you can find some cases where the distinction exists, but there ought to be one provision of the law in reference to referring these claims to the Court of Claims. We ought to find a method, and we will not find it in this way, by which we can refer cases to the Court of Claims, and then when the Court of Claims passes upon those cases give the court or its findings some credence. No one here pays any attention, unless he is interested in the claim, to a finding of the Court of Claims under the old Bowman and Tucker Acts, under which the court could express its finding, but not its judgment at all, because there is no authority to give a conclusion, no authority to make a finding, no authority to do anything that is binding upon the court, no authority for the court to express its opinion even as to whether a claim was just or not. Then gentlemen wonder why claims are not passed through Congress. I have repeatedly seen claims recommended from one of the committees on the floor of this House, with the finding of the Court of Claims attached to them, where the court intimated there was no just claim. And yet the committee in reporting them said it reported them upon the basis of the finding of the Court of Claims, when such a finding as they had made was adverse to the claim. I do not criticize the committees, because in a great number of those claims that come to the House some of the clerks probably have done the work, but there ought to be a way, and there is a way, if the committee will try to do it, of referring these cases to the Court of Claims so that the court will express an opinion which is of some value, and then those claims can be paid and will be paid by Congress. But as long as the old claims, from 40 to 100 years of age, are sent to the Court of Claims on the pretense that the court can make a finding in reference to them, with no real finding made, the gentlemen will find difficulty in getting a smooth and easy road for those claims to pass through Congress.

Mr. PARSONS. Will the gentleman yield for a question?

Mr. MANN. Certainly.

Mr. PARSONS. Does the gentleman think if we try to bring in as a substitute for these sections a provision which would accomplish what he thinks ought to be accomplished it would be incorporated in the bill? I am in thorough sympathy with what he says. I think the matter of claims against the Government is one of the most outrageous things we have.

Mr. MANN. There will be no difficulty in consolidating these in some way, so that we might give some authority to the Court of Claims, and then we will have some respect for the findings which they will really make.

Mr. DOUGLAS. I should like to ask the gentleman what he would think of adding, after the word "same," in line 22, the words "with its opinion thereon."

Mr. MANN. I suppose the committee has an amendment when section 155 is reached.

Mr. MOON of Pennsylvania. Mr. Speaker, I am going to ask unanimous consent that these sections may be passed over without prejudice and that we may recur to them. I also am of the opinion that there can be a consolidation made of all conditions under which claims or matters are pending in either House of Congress. We found the law in this condition. We found that there existed a material distinction between the two classes of cases, but it seems to me that there is no reason why a workable proposition could not be offered by the committee, now that it has been suggested, that would combine the two. Therefore I ask the unanimous consent.

Mr. PARSONS. I suggest that the unanimous consent include sections 148, 151, and 152 also.

Mr. MOON of Pennsylvania. Very well; to include all those sections.

Mr. COOPER of Wisconsin. I want to make one suggestion to the chairman.

Mr. FLOYD of Arkansas. I want to ask the chairman if it was understood that my amendment should be pending.

Mr. MANN. Your amendment is pending.

Mr. MOON of Pennsylvania. Oh, yes.

Mr. COOPER of Wisconsin. Mr. Speaker, I wish briefly to call the attention of the chairman of the committee to certain phraseology in these sections that can be made considerably more accurate. For example, in lines 23 and 24, on page 137:

When the facts and conclusions of law shall have been found—

A court does not "find" conclusions of law. A court "finds" the facts, but does not "find" conclusions—

the court shall report its findings to the department by which it was transmitted.

What is the antecedent of the word "it?" To what does it refer? To the words "claim or matter" in the first line of the first paragraph of the section. The word "it" should be stricken out and the words "the claim or matter" substituted. A better form for the last paragraph or sentence, beginning in line 23, would be this: "The court shall report its findings of fact and conclusions of law to the department by which the claim or matter was transmitted."

On the next page again appears the expression:

When the facts and conclusions of law shall have been found—

Mr. MOON of Pennsylvania. The gentleman's suggestions will go into the record, and I assure him they will have consideration by the committee.

The SPEAKER pro tempore. Will the gentleman state his request?

Mr. MOON of Pennsylvania. That sections 148——

Mr. MANN. To 155 inclusive——

Mr. MOON of Pennsylvania. That sections 148 to 155, inclusive, may go over without prejudice and may be recurred to.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that sections 148 to 155, both inclusive, may be passed without prejudice to be again returned to. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Chair understands that it is not necessary to read section 155.

Mr. MOON of Pennsylvania. No. Let the Clerk begin with section 157.

The Clerk read as follows:

SEC. 157. [The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the war for the suppression of the rebellion, or for the use and occupation of real estate by any part of the military or naval forces of the United States in the operations of said forces during the said war at the seat of war; nor shall said court have jurisdiction of any claim against the United States which is barred by virtue of the provisions of any law of the United States.]

Mr. BARTLETT of Georgia. I move to strike out, in line 9, page 140, the words "during the war for the suppression of the rebellion" and to insert "during the Civil War from 1861 to 1865."

The SPEAKER pro tempore. The gentleman from Georgia offers an amendment, which the Clerk will report.

The Clerk read as follows:

In line 9, page 140, strike out the words "during the war for the suppression of the rebellion" and insert "during the Civil War from 1861 to 1865."

Mr. MOON of Pennsylvania. How will it read?

The CLERK. So that it will read:

The jurisdiction of said court shall not extend to or include any claim against the United States growing out of the destruction or damage to property by the Army or Navy during the Civil War from 1861 to 1865.

Mr. MANN. Let me ask the gentleman whether he means by those dates to define the Civil War or to define the limits of time.

Mr. BARTLETT of Georgia. We have now got away from designating that as the war of the rebellion. Those statutes which so described it were passed in 1866, some in 1865, and some in 1862.

Mr. MANN. If the years that the gentleman names are intended to designate what war it was, the war from 1861 to 1865, that is an adjective description; but if it refers to the time when the property was taken——

Mr. BARTLETT of Georgia. Oh, I am perfectly content to let it stand as the Civil War. We all understand what that means.

Mr. MANN. I think so.

Mr. BARTLETT of Georgia. Mr. Speaker, I ask unanimous consent to modify my amendment and leave out the words "between 1861 and 1865" and insert the words "the Civil War."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

In line 9, strike out the words "war for the suppression of the rebellion" and insert the words "Civil War."

Mr. KEIFER. What is to be accomplished by that?

Mr. MANN. Good feeling, that is all; but that is worth something.

Mr. BARTLETT of Georgia. The gentleman from Ohio is a distinguished representative of the people who fought on the other side. I was born and raised among the people who fought on the Confederate side, and we have got far enough away from that era in our history not to use the word "rebellion."

Mr. KEIFER. It is used in the Constitution.

Mr. BARTLETT of Georgia. What part of the Constitution?

Mr. KEIFER. In the fourteenth amendment.

Mr. BARTLETT of Georgia. Yes; but that amendment was adopted right after the war, when sectional animosity and hate were rife.

Mr. KEIFER. I do not see that anything is to be accomplished by it.

Mr. BARTLETT of Georgia. Nothing to be accomplished by it except that in the legislation we have had for years the war has not been referred to as the War of the Rebellion.

Mr. KEIFER. That is what it was.

Mr. BARTLETT of Georgia. Well, people will differ with the gentleman. Mr. Speaker, I am the son of a Confederate officer who fought on the other side, and I mean no reflection upon anyone when I say we differ from those who would call it "the rebellion." It was no more a rebellion than the Revolutionary War was.

Mr. KEIFER. You called it a rebellion in the time of it.

Mr. BARTLETT of Georgia. The gentleman from Ohio knows that it has been long enough after the cessation of hostilities to join in that spirit that now pervades the whole American people to endeavor, as far as we can, to forget the animosities created by that struggle. [Applause.] It is not the part of a generous foe on the victorious side to suggest that the words that were used in the heat of that bloody conflict, or the words that were used in the days following that fearful struggle, should still be kept up. For myself, I have lived long enough to respect the views of people upon the other side who maintained upon the battle field their cause for which they fought. I believe that the vast majority of the people in this country, the overwhelming majority of the valiant men who really fought in the Federal Army, also have arrived at that position where they, too, respect the views and the sentiments of those against whom they fought. [Applause.] Therefore, actuated purely by sentiment, believing that it would not meet any opposition from the other side, even from my friend from Ohio, I have offered this amendment. [Applause.]

Mr. KEIFER. Mr. Speaker, if that speech was intended as a lecture to me it comes about 50 years too late.

Mr. BARTLETT of Georgia. I disclaim, Mr. Speaker, any intent to lecture my friend from Ohio. Even if I were so inclined I would have too much respect for him to do so.

Mr. KEIFER. That speech has more tendency to call up the differences that arose from 1861 to 1865 than the use of the language in this bill. I do not particularly object to substituting the words "Civil War" for "the rebellion." I asked what was to be accomplished, and the gentleman from Georgia seems to think that it would have some tendency to get those differences out of the minds of the people of this country—very few would ever read it; more will read his speech—to help to bring about a better feeling toward those who fought in the war or believed in the war, rebellion or Civil War. On the 9th of April, 1865, when Lee surrendered at Appomattox, some of us here, with open wounds still running, welcomed the soldier on the other side that we had been fighting against for four years, and laid down all our feelings as far as they were concerned [applause], and I have stood by and had no trouble with them for 50 years since. I had the honor but a few days later than that great surrender at Appomattox to go to Greensboro, N. C., and ride through the surrendered army of Joe Johnston, and I had the same kindly feeling toward the soldiers who fought there that I had at Appomattox, and if there is any Confederate soldier of any rank, or without rank, that I have met since in any other spirit than that of kindness and forgiveness, if forgiveness was necessary, I would like to know where he is to be found. [Applause.]

They come from the South to our country, to my home, and they are received there by the old Grand Army soldiers and taken to their meetings and honored always, and no insult is ever shown them. So I do not accept any lecture on that subject, because it was unnecessary 50 years ago and has not been since. I had the honor of having in my command in the Spanish War the sons of Confederate veterans from Texas, from Louisiana, from Alabama, from Tennessee, from South Carolina, and I do not believe you can find one of them that ever discovered any evidence that I ever had any feeling toward them because they were from that southern country or the sons of Confederate veterans. One of my chief officers was a son of Maj. Gen. John B. Gordon, and I had on my staff as chief inspector Maj. John Gary Evans, ex-governor of South Carolina and the son of a distinguished Confederate general, and for a while the son of Lieut. Gen. J. E. B. Stuart, and I had others from the South, and they were always treated and honored equally with all other officers, Regular or Volunteer, with whom they served, and this is the first time that it has ever seemed to me that anybody wanted to criticize me for my feelings growing out of the Civil War, especially toward the Confederate officers or soldiers.

Mr. BARTLETT of Georgia. May I interrupt the gentleman?

Mr. KEIFER. Certainly.

Mr. BARTLETT of Georgia. I desire to say to my friend that I regret very much if he accepts anything that I said in the nature of a lecture, and to do so is to do me a great injustice. I do not think what I said authorizes him to make any such characterization of it. I have no intention of lecturing the gentleman. If I felt so inclined, my respect for the gentleman would have prevented me from doing so. [Applause.]

Mr. KEIFER. Mr. Speaker, I understand the gentleman is kind hearted and a good friend, and I suppose I was to blame for asking him a question. I did it in good faith, and I have no feeling toward him. [Applause.]

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 161. Every claim against the United States cognizable by the Court of Claims shall be forever barred unless the petition setting forth a statement thereof is filed in the court or transmitted to it by the Secretary of the Senate or the Clerk of the House of Representatives, as provided by law, within six years after the claim first accrues: *Provided*, That the claims of married women, first accrued during marriage, of persons under the age of 21 years, first accrued during minority, and of idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued, entitled to the claim, shall not be barred if the petition be filed in the court or transmitted, as aforesaid, within three years after the disability has ceased; but no other disability than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

Mr. MANN. Mr. Chairman, I offer the following amendment, which I send to the desk, to come in as a new section after section 161.

The Clerk read as follows:

That any party to a contest or proceeding before the Department of the Interior, to acquire, under any law or treaty of the United States, the title or any right or interest in, or use or possession of, any part of the public lands or of any reservation of the United States, shall have the right to appeal from the final decision of said department to the Court of Claims as hereinafter provided; and the said department, in finally deciding any such contest or proceedings, shall find and state separately the respective facts and conclusions of law upon which the decision is rendered.

That any party desiring to take an appeal to said Court of Claims as herein authorized shall, within 60 days after notice of the decision to be appealed from, serve personally or by registered mail upon the Secretary of the Interior and upon each of the parties shown by said proceedings to have an interest therein, notice of such appeal and file such notice with proof by affidavit or otherwise of the service thereof in the office of the clerk of said court. Said notice shall specifically set forth the errors complained of and be accompanied by an affidavit of merit, and within 20 days after the filing of such notice appellant shall furnish security for costs in said court as in other cases provided.

That within 30 days after the filing of such notice of appeal, or such further time as may be allowed by order of the court, it shall be the duty of the appellant to file with the clerk of said court, in such form as said court may by rule prescribe, a certified copy of the decision appealed from, together with so much of the records of the Department of the Interior as may be necessary to a full understanding of the errors complained of; and whenever it shall be made to appear, upon motion, supported by oath of any party to such proceeding or his attorney, to the satisfaction of said court, that the record as filed is incomplete, that the omitted matter is material and necessary, and that said motion is not for delay, said court may direct that a transcript of the omitted matter be supplied by the Secretary of the Interior, or may, in its discretion, include all or such portion of the record of the Department of the Interior as it may deem necessary to a proper consideration of such appeal, the expense of the certification of such transcript to be borne by the parties to said proceeding in such manner as the court may direct.

That upon the filing in the office of said clerk of the Court of Claims of the record in any case as herein provided, such further proceedings shall be had therein as may conform to the law and practice of said court in other cases, and said court shall hear and determine such appeal, transmitting to the Secretary of the Interior certificate of its proceedings and conclusions, which shall be filed in the Department of the Interior and shall govern the further proceedings in the case.

That the Secretary of the Interior may, with the concurrence of the Attorney General of the United States, certify to the said Court of Claims any questions or proposition of law arising in connection with any application before the Department of the Interior to acquire the title or any right or interest in, or the use or possession of, any part of the public lands, or of any reservation of the United States, concerning which he desires the instruction of that court because of unusual gravity or importance of the questions and propositions certified, and thereupon the said court may hear and give its instructions on the questions and propositions certified to it, which shall be binding upon the Secretary of the Interior in the further disposal of the matter before his department, and for this purpose the court may require certified copies of any records of the Department of the Interior bearing upon the questions and propositions certified. In certifying any question or proposition of law under this section it shall be the duty of the Secretary of the Interior to advise all interested parties as shown by the records of his department, and upon proper petition said parties may, with the permission of said court, be permitted to intervene and be heard respecting the determination of the questions and propositions certified.

That it shall be the duty of the Assistant Attorney General for the Department of the Interior, or such other officer as he or the Attorney General of the United States may designate, to appear before said court and represent the interests of the United States in any proceeding appealed or certified under this act.

That the decision of said Court of Claims in any proceeding appealed or certified to it, as in this case provided, shall be final and conclusive: *Provided, however,* That it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any such cause to be certified to that court for its review and determination with the same power and authority in the case as if it had been carried to said court by appeal or writ of error.

That nothing herein contained shall in any manner limit or affect any right of the United States to bring suit for the annulment of any patent or the revocation of any grant heretofore or hereafter given, nor shall the failure of any party to appeal from the final decision of the Secretary of the Interior, as herein provided for, preclude such party from prosecuting any claimed right in the premises in the appropriate tribunal having jurisdiction of the land after the title thereto shall have passed out of the United States.

Mr. JAMES. Mr. Speaker, I desire to make a point of order against that amendment. I understand that it is merely introduced by the gentleman from Illinois in order that it may be considered as pending, to come up for consideration when the bill is taken up again.

Mr. MANN. I ask unanimous consent that the amendment may be passed over, with the point of order pending against it, until the next day that the bill is taken up.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the amendment just offered by him, and to which the gentleman from Kentucky makes the point of order, may be passed over for the present, to be called up on the next day that the House shall take up the consideration of this bill. Is there objection?

Mr. JAMES. Mr. Speaker, pending that, does the gentleman from Illinois intend that this shall be printed in the RECORD?

Mr. MANN. That is the reason I had it read.

Mr. JAMES. Very well.

The SPEAKER pro tempore. Is there objection?

Mr. MARTIN of South Dakota. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. MARTIN of South Dakota. I rise to reserve the right to object. I desire to state that, apparently, the gentleman from Illinois has offered as an amendment here what is known as the Mondell bill (H. R. 27071). There are some manifest imperfections in that bill, particularly in the first section of it. If, indeed, the purpose that is sought to be accomplished is seriously to be acted upon by the House, I desire to reserve the right to object now in order to call attention to one or two of them and insert in the RECORD something that ought to be there, I think, in connection with the pending amendment.

The SPEAKER pro tempore. The Chair will state the amendment is not subject to debate at this time with a point of order against it, except by unanimous consent.

Mr. MANN. Let him make his statement.

Mr. MARTIN of South Dakota. I desire in some way to get this in the RECORD, and I would like to have not over five minutes.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the gentleman may have five minutes.

Mr. MOON of Pennsylvania. Mr. Speaker, I understand that the gentleman does not want to discuss this subject, but to have some remarks published in the RECORD so that they may be considered in connection with this subject.

Mr. MARTIN of South Dakota. I desire to make some brief remarks that I think ought to be considered.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the gentleman from South Dakota may proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MARTIN of South Dakota. Mr. Speaker, the language of section 1 of the Mondell bill—

That any party to a contest or proceeding before the Department of the Interior, to acquire, under any law or treaty of the United States, the title or any right or interest in, or use or possession of, any part of the public lands or of any public reservation of the United States, shall have the right to appeal——

Mr. MANN. I just want to call the attention of the gentleman that as printed in the RECORD the amendment will not show sections.

Mr. MARTIN of South Dakota. It is the first paragraph of the bill. It is not numbered 1, but it is the one always understood to be the first in the construction of a bill. Now, it will be noticed that the language is very broad. It will make possible, if passed into law, an appeal on any matter pertaining to any interest affecting in any way title to or right of possession of any part of the public lands of the United States. There are many purely ministerial and executive functions performed by the Secretary of the Interior involving purely an executive discretion regarding the obtaining of certain privileges to portions of the lands of the United States that do not involve in any sense a question that can properly be reviewed by a court. I will example a few. There is the law applying to the purchase of coal lands. The statute of the United States limits the price to be paid for coal land. In case the coal land is within 15 miles of a railroad it shall be not less than $20 an acre, and if it goes beyond that, not less than $10 per acre. The discretion is lodged in the Secretary of the Interior and is an absolute business discretion as to whether it shall be in excess of $10 or $20 an acre up to any amount. Now, in the purchase of coal lands this is a purely ministerial discretion had by the Secretary of the Interior to fix a price upon that land; yet under this act, if it shall become a law, that subject can be appealable to the court of appeals of the District of Columbia, which has no possible jurisdiction or facility as a court to perform any function of that kind. I might state numerous others——

Mr. PARSONS. Will the gentleman yield?

Mr. MARTIN of South Dakota. Yes.

Mr. PARSONS. The court would not entertain the appeal. Have they right to take an appeal to the court? There is no statute upon which the court could reverse the action of the department.

Mr. MARTIN of South Dakota. Here is a proposed statute by which that sort of proceeding is made appealable to the court of appeals of the District of Columbia. Many rights of way across public reservations are obtained by permit or license continued from year to year. It is discretionary with the Secretary whether he grants this permission or not, and yet the matter could be brought up, and if denied, it would be subject to appeal.

Mr. PARSONS. The bill does not grant any right, does it?

Mr. MARTIN of South Dakota. The bill does grant a very important right, for it grants the right of appeal on any of these cases to the court of appeals.

Mr. PARSONS. But it does not grant the right to a right of way to any coal. It does not change any substantive law.

Mr. MARTIN of South Dakota. But it grants the right of review on this proposition to a court of law or equity when they are purely ministerial acts.

Mr. JAMES. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. JAMES. Is it not also true that under the land law now in force in the United States appeals may be taken to the

President of the United States that he may pass upon the question?

Mr. MARTIN of South Dakota. Appeal is not allowed to the President of the United States in most of the matters pertaining to rights or title to land.

Mr. JAMES. But it can go there. I do not know whether it is allowable or not.

Mr. MARTIN of South Dakota. If the President sees fit to review an action of a departmental chief he can do so.

Mr. JAMES. Certainly; the departmental chief acts for the President.

Mr. MARTIN of South Dakota. It is almost unheard of that the action of the Secretary of the Interior on the acquisition of land should be appealed to the President.

Mr. JAMES. Of course, the gentleman knows that the President now has under consideration the Cunningham coal claims?

Mr. MARTIN of South Dakota. Yes.

Mr. JAMES. And this would take it out of his hands and lodge it in the court, would it not?

Mr. MARTIN of South Dakota. Quite likely. At any rate it would give a review of that proceeding to the court of appeals of the District of Columbia. Believing that this would transfer numerous ministerial powers to the court of appeals of the District of Columbia, a court not at all equipped for the examination of that sort of questions, perfectly foreign to the organization of the court, I addressed a communication to the Secretary of the Interior, having observed that this bill appears to have received a favorable recommendation from the department, calling attention to this language and raising the question whether it would not in effect, if passed, transfer to the court of appeals all of this class of ministerial and purely executive duties, and I have here a communication from the Secretary practically conceding that that would be the case, and that the bill ought to be amended before being placed in the form of law, and I will therefore pass this communication to the Clerk and ask that it be put in the RECORD as a part of my remarks.

Mr. MADISON. The gentleman discusses this matter with some seriousness. Does he really suppose the gentleman from Illinois [Mr. MANN] offered this with any idea that it would pass?

Mr. MARTIN of South Dakota. That is a question that the gentleman from Kansas [Mr. MADISON] better propound to the gentleman from Illinois rather than to myself.

Mr. MADISON. I was asking the gentleman. It seems to me it is like wasting time to discuss the proposition, with all due deference to the gentleman from South Dakota, with the seriousness that he has. It seems to me to be perfectly apparent that the purpose of it is to cause a discussion here with regard to a matter that will take up a good deal of time, and will further occupy the time of calendar Wednesday, and, further, make it absolutely impossible to secure the passage of this bill.

Mr. MANN. Or the consideration of an amendment which the gentleman wants to take up later on, perhaps.

Mr. MADISON. But I have no amendment pending, as the gentleman very well knows. I am not offering any.

Mr. MANN. I thought the gentleman had an amendment.

Mr. MADISON. No; I have not anything of the kind.

Mr. MANN. Then I withdraw the statement.

Mr. MADISON. Certainly; but I shall not withdraw the one I made, because I think it is really apparent and obvious.

Mr. MANN. It is not the case, and the gentleman has no right to make the statement.

Mr. MARTIN of South Dakota. So far as "the gentleman from South Dakota" is concerned, I make no apology for discussing this proposition seriously. The bill which the gentleman has offered as an amendment here has already been passed upon by the committee having jurisdiction of the subject, the Committee on Public Lands of the House, and is on the calendar for passage, and it ought to be considered seriously, if at all.

The SPEAKER pro tempore. The gentleman from South Dakota [Mr. MARTIN] asks unanimous consent to extend his remarks by inserting certain matter in the RECORD. Is there objection?

There was no objection.

Following is the letter referred to by the gentleman from South Dakota [Mr. MARTIN]:

DEPARTMENT OF THE INTERIOR,
Washington, January 30, 1911.

Hon. EBEN W. MARTIN,
House of Representatives.

SIR: I have your communication of the 14th instant wherein you refer to H. R. 27071, entitled "A bill to provide for appeals from decisions of the Secretary of the Interior to the court of appeals of the District of Columbia, and for other purposes," and the report of the Public Lands Committee thereon, containing a copy of my letter to the President of June 20, 1910, all of which you inclosed, and in which you call attention to the "broad language" contained in section 1 of the bill, which gives to any party to a proceeding before the Department of the Interior, to acquire "any right or interest in or use or possession of" any part of the public lands, a right to appeal to this court from the final decision of said department.

You say it has occurred to you to inquire whether there are not under the law quite a large number of duties placed upon the Secretary of the Interior in relation to the possession or use of portions of the public domain or reservations, in which the Secretary acts" in purely a ministerial or discretionary manner," and whether the effect of passing this bill in its present form would not be to transfer by appeal all of this class of "ministerial and discretionary" matters to the court of appeals, and suggest that manifestly that court would not be the proper place to review subjects of this kind.

You further ask to be advised whether there is a considerable list of such discretionary powers which might be transferred, in effect, by this legislation in its present form, and, if so, that you be favored with an enumeration of them.

Without entering into any discussion as to the merits of your suggestion that this bill as drawn might affect the jurisdiction of the Secretary of the Interior, under existing law, over a "class of ministerial and discretionary matters," in an undesirable way, but conceding that there may be room for difference of opinion upon this question, I have caused to be drawn a proviso to section 1 of said act which, in my judgment, makes it plain that such matters are not committed to the jurisdiction of said court. Section 1 with the proviso would read in full as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any party to a contest or proceeding before the Department of the Interior, to acquire, under any law or treaty of the United States, the title to any right or interest in, or use or possession of, any part of the public lands or of any reservation of the United States, shall have the right to appeal from the final decision of said department to the court of appeals of the District of Columbia, as hereinafter provided; and the said department, in finally deciding any such contest or proceedings, shall find and state separately the respective facts and conclusions of law upon which the decision is rendered: *Provided*, That nothing in this act contained shall be construed as taking away from, or in any way limiting, the discretionary powers and exclusive jurisdiction conferred upon the Secretary of the Interior by the laws of Congress respecting purely administrative matters, or in the granting of permits for the use or occupancy of, or upon, the public lands, national parks, Indian or other reservations of the United States, or as transferring to the said court of appeals of the District of Columbia, by appeal or otherwise, full or concurrent jurisdiction to review or consider his action in such matters except as they may be involved in questions certified to said court in accordance with the provisions of section 5 of this act."

Adverting to your request that you be advised if there is a considerable list of such discretionary powers as might be in effect transferred by the legislation in the present form of the bill, I have to advise you that there are many such powers that should by no means be taken away from the Secretary of the Interior and as to which the exclusive jurisdiction of that officer should not be interfered with in any way. One of these powers, suggested in your said communication, is the classification of coal land. The list of discretionary matters of the kind referred to would be a long one.

It may not be inappropriate to call your attention to the fact that under existing law these same powers, in so far as they provide for the granting of a permit to occupy and use lands in a forest reserve, which occupation or use is temporary in character and which, if granted, will in nowise affect the fee or cloud the title of the United States should the reserve be discontinued, have been transferred to the Secretary of Agriculture. If such of them as are still within the jurisdiction of the Secretary of the Interior should be transferred to the court of appeals of the District of Columbia, we would have the anomalous condition of the actions and decisions of the Secretary of Agriculture being final as to such matters as come within his province, and not final as to such of them as still remain in the jurisdiction of the Secretary of the Interior.

Moreover, the duties imposed by law upon the Secretary of the Interior in the management and control of Government reservations and national parks make it essential that he should have exclusive and final authority in the granting of these permits within such reservations and parks. As before stated, this is only illustrative of the subject matter in hand, the discretionary powers of the Secretary of the Interior, under existing law, in the supervisory control of the public domain of the United States being many.

Trusting that this sufficiently answers your inquiry, and that the suggestions made herein will be found helpful in the enactment of necessary and wise legislation upon the subject, I remain,

Very respectfully, R. A. BALLINGER, *Secretary.*

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. COOPER of Wisconsin. Reserving the right to object, I would like to know what the request was.

The SPEAKER pro tempore. The request of the gentleman from Illinois was for unanimous consent that the amendment offered by him, and against which the gentleman from Kentucky [Mr. JAMES] made a point of order, could go over and be considered as pending, and be considered the next day the House has this bill under consideration.

Mr. COOPER of Wisconsin. With the point of order pending?

The SPEAKER pro tempore. With the point of order pending. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

SEC. 164. The claimant shall in all cases fully set forth in his petition the claim, the action thereon in Congress or by any of the departments, if such action has been had; what persons are owners thereof or interested therein; when and upon what consideration such persons became so interested; that no assignment or transfer of said claim or of any part thereof or interest therein has been made, except as stated in the petition; that said claimant is justly entitled to the amount therein claimed from the United States after allowing all just credits and offsets; that the claimant and, where the claim has been assigned,

the original and every prior owner thereof, if a citizen, has at all times borne true allegiance to the Government of the United States, and, whether a citizen or not, has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government, and that he believes the facts as stated in the said petition to be true. The said petition shall be verified by the affidavit of the claimant, his agent or attorney.

Mr. BARTLETT of Georgia. Mr. Speaker, I move to strike out the last word. I do not move to strike out the words "encouragement to rebellion" in this section, because that is a general term, and is not used here to specify any particular era or any particular class of people in the United States. It is a general provision, which is no doubt proper, that when anybody undertakes to recover in the Court of Claims he shall comply with the requirement that he has not engaged in or voluntarily given aid or comfort to the enemies of the United States.

I did not want it to be understood that I failed to notice these terms; but I have not moved to strike them out, because I do not think that leaving them there would mean what the words used in the other section which was amended meant. This is a general term and would not necessarily be used to indicate any particular class of people. So, without renewing the discussion had here in reference to it, I have not made any motion to strike out those words. That is the reason for it.

The Clerk read as follows:

SEC. 166. Whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where, at any time during such residence, the rebel force or organization held sway, shall be prima facie evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

Mr. BARTLETT of Georgia. I offer the amendment which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Georgia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Insert at the end of section 166, line 21, the following:

"*Provided, however,* The claimants in all suits against the United States Government to recover property, or the value thereof, taken or seized by the authorities of the United States Government, whether military or civil, under the act of March 12, 1863, known as the captured and abandoned property act, and acts amendatory thereof, and which said property has been sold and the proceeds thereof covered into the United States Treasury, shall not be required as a condition to recovery to prove their loyalty to the United States Government, and jurisdiction to hear and determine such suits is hereby conferred upon the Court of Claims."

Mr. MANN. I reserve a point of order on the amendment.

The SPEAKER pro tempore. The gentleman from Illinois reserves a point of order against the amendment.

Mr. BARTLETT of Georgia. May I request my friend to state the ground of his point of order?

Mr. MANN. I possibly will not be able to do so until I get the gentleman from Kentucky to state his point of order on an amendment which I just offered. Perhaps I will withdraw it after the gentleman has made his statement. I reserve it. Does the gentleman desire me to make it?

Mr. BARTLETT of Georgia. No; I desire simply to know the grounds of it.

Mr. MANN. There is only one ground upon which it could be made.

Mr. BARTLETT of Georgia. That it is not germane?

Mr. MANN. That it is not germane to this part of the bill or to the section.

Mr. BARTLETT of Georgia. I think it is.

Mr. Speaker, I understand my friend from Illinois reserves a point of order to this amendment upon the ground that it is not germane. I will briefly discuss that.

The SPEAKER pro tempore. The Chair does not understand that the gentleman from Illinois has yet made the point of order.

Mr. BARTLETT of Georgia. No; he reserved it, and therefore we might as well discuss that now as at any other time, because I have very little to say upon it, being confident that the amendment is in order; because this section provides that—

Whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant asserting the loyalty of such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States, etc.

Now, the amendment deals altogether with the subject of proof of loyalty, because the amendment declares that in a certain kind of cases, of claims to be presented to this court, there shall not be required the proof of loyalty that is required in this particular section, so that the idea of the section is that in a certain class of claims it requires the proof of loyalty. The idea conveyed by the amendment is, in a certain class of claims, not to require proof of loyalty. One is based upon requiring proof of loyalty, and the other, the amendment, is an exception to the rule provided in the section. It says you shall not require proof of loyalty in a certain class of cases of which the court is given jurisdiction.

Mr. MANN. To the extent the gentleman has gone he is absolutely correct; but does not the gentleman's amendment confer upon the Court of Claims jurisdiction in this class of cases?

Mr. BARTLETT of Georgia. Yes.

Mr. MANN. Without regard to the statute of limitations?

Mr. BARTLETT of Georgia. Yes.

Mr. MANN. Is not that a distinctive proposition apart from the question of loyalty?

Mr. BARTLETT of Georgia. This section, I think not.

Mr. MANN. In this section we are dealing with the question of loyalty. The gentleman offers an amendment providing that the Court of Claims shall have jurisdiction of a certain class of cases that are now barred, entirely apart from the question of loyalty. A part of the gentleman's amendment relates to loyalty in these cases, perfectly germane; but does the gentleman think the balance, conferring on the court jurisdiction of the cases, is germane to the proposition in reference to proving loyalty?

Mr. BARTLETT of Georgia. I appreciate the statement made by the gentleman from Illinois and will undertake to answer it the best I can. I think we have a right anywhere in this chapter, which deals with the Court of Claims and gives jurisdiction, to offer this amendment.

It is true that this particular section deals with a certain class of proof, but I want to call the attention of the committee to the fact that under the Revised Statutes, section 1059, one of the first paragraphs in the section confers jurisdiction on the Court of Claims, and contains the power of the Court of Claims to hear this particular class of cases. It may be, Mr. Speaker, that I shall have to strike out the words "confer jurisdiction." I do not want to do it and leave Congress hereafter to deal with the matter to give this court jurisdiction. I am frank to say if driven to that I shall do so.

I want to say a word as to why I offer this amendment. I have already made some remarks to the House to-day about the peculiar hardship and the peculiar injustice and the wrongs that have been inflicted on a certain class of citizens of our country where I live, and where a number of Representatives come from, by the United States Government under the act of March 12, 1863, seizing property of our citizens after the war had practically and really ended, converting the property into cash under orders of the Government, paying the money into the Treasury of the United States, where it has remained ever since and where it now is, to the credit of this captured and abandoned property fund, where those entitled to it, or the descendants of those who have passed away, who are entitled to it but can not reach it because of the acts that require proof of loyalty during the whole continuance of the Civil War.

I will not detain the House by reading in extenso the decisions of the court; but the Supreme Court, in the case of Lamar against Brown, Ninety-second United States, decided that the war did not end until April 21, 1866.

As late as August 9, 1865, and January 4, 1866, cotton was taken, and because the Supreme Court declared that the war had not ended until April 21, 1866, they were not entitled to receive from the Court of Claims any consideration of their case unless they proved loyalty.

Now, this amendment that I have offered has for its purpose that when any of these suits are authorized to be brought, either under existing law or any law we may pass hereafter, the claimant shall not be required to prove loyalty in order to have status in court, as we are now under the act of 1863 and 1867. That is all I desire to say about the amendment.

Mr. MOON of Pennsylvania. Mr. Speaker, I hope this amendment will be defeated. It seems to me essential that it should be defeated. The authority to go to the Court of Claims at all is a pure act of beneficence on the part of the United States Government. It permits itself to be sued. One of the attributes of sovereignty is that it is entirely exempt from liabilities of that kind, and the condition upon which it is conferred upon citizens is that one of the fundamental principles applying to war claims prosecuted in the Court of Claims shall be that the person seeking money from the United States Government for such claims shall demonstrate his loyalty to the Government during the period of the rebellion.

Mr. BARTLETT of Georgia. May I interrupt the gentleman?

Mr. MOON of Pennsylvania. Yes.

Mr. BARTLETT of Georgia. The gentleman's statement is too broad, because I have a case here decided by the Court of

Claims—Cheeves against the United States—where the Court of Claims held, in a case referred to it by Congress under the Tucker Act, that it was not necessary in order for the court to entertain suit to prove loyalty, because Congress could, if it saw fit to do it, relieve the party of that requirement.

Mr. MOON of Pennsylvania. Mr. Speaker, I imagine that that was where the reference was made under an act of Congress respecting some bill that was pending here, and where the action of the court was only advisory. At all events, I want to say this, in the little time remaining: These claims are, and have been now for nearly 40 years, barred by the statute of limitation. No new claims of any kind can be brought before the court. The existing law and the provisions of this bill leave untouched all claims that are now pending. It seems to me, therefore, after the lapse of all these years, when no new suits can be brought, to attempt to strike down a rule of evidence that has universally prevailed in all cases in every act of Congress that has ever been passed respecting war claims or claims growing out of the late Civil War—to strike down this limitation would be absolutely impossible for us to think of.

Mr. BARTLETT of Georgia. May I ask the gentleman a question?

Mr. MOON of Pennsylvania. Certainly.

Mr. BARTLETT of Georgia. Does not the gentleman know that the Senate of the United States twice passed an act in the very language that I have used here in this amendment, introduced by the distinguished Senator from Ohio, Mr. Foraker, and that it came to the House and was twice unanimously reported by the Committee on War Claims of this House and was upon the calendar of this House for at least four years?

Mr. MOON of Pennsylvania. In answer to the gentleman, I will admit that I did not know that fact; but if it ever be deemed advisable to pass legislation of that kind, let it be done in a regular act, not upon this bill, which is only a codification of the laws.

Mr. MANN. Mr. Speaker, the question under consideration is one in reference to the claimant asserting and proving loyalty. The amendment offered by the gentleman from Georgia, as I understood it, as read from the desk, provided that as to the claims under the captured and abandoned property act there should be no necessity of proof of loyalty, and to that extent it may be that the amendment is germane to the section; but as I understood the amendment, it conferred upon the Court of Claims jurisdiction over that class of cases, which certainly is not germane to a proposition in reference to loyalty. If the court has jurisdiction, an amendment in reference to the proof of loyalty as to those claims is in order, but how can it be claimed that an amendment conferring upon the court jurisdiction in a class of cases is germane to a section relating merely to a matter of proof in the case?

The SPEAKER pro tempore. Does the gentleman from Illinois make the point of order?

Mr. MANN. If the gentleman from Georgia is through with his statement, I will make the point of order.

Mr. BARTLETT of Georgia. Mr. Speaker, I will ask the Chair to hear me a moment on the point of order. I do not think there is any question that it is not subject to the point of order unless the words added at the end, "and jurisdiction is conferred upon the Court of Claims to hear and determine such cases," make it subject to the point of order. It is germane to this bill. It is germane to this section, and, if necessary, I could make it an independent section; but if the Chair rules that it endangers the whole amendment, I am willing to strike those last words out and leave the other that is not subject to the point of order.

Mr. MOON of Pennsylvania. But I desire to call the attention of the Chair to the fact that this whole amendment is subject to the point of order.

Mr. BARTLETT of Georgia. It is too late to make the point of order now.

Mr. MOON of Pennsylvania. The point of order was reserved, and it is still pending.

Mr. BARTLETT of Georgia. No; the gentleman from Illinois made it——

Mr. MANN. I made it on the ground that the amendment is not germane.

The SPEAKER pro tempore. The Chair is ready to rule. This is offered as an amendment to section 166, which section as it now stands in the bill relates entirely to the matter of proving the loyalty of claimants against the Government. It puts upon the claimant the burden of proving his loyalty during the Civil War and that he "gave no aid or comfort to persons engaged in said rebellion," and so forth. It does not confer any added jurisdiction or any jurisdiction whatever upon the Court of Claims. Now, the amendment concludes in this language:

> The right to consider, hear, and determine such suits is hereby conferred upon the Court of Claims.

That is to say, the amendment proposes to confer upon the Court of Claims a new jurisdiction which it does not now possess, to hear and determine suits against the United States to recover property or the value of property taken or seized by the authority of the United States Government, and so forth. The Chair does not desire to be understood as ruling that the subject matter of this amendment is not germane to the bill or that it would not be germane if offered as an independent section. It will be time enough to meet those questions when they arise. But when an amendment is offered to a particular section it must be germane to that section. The proposed amendment contains matter which, as pointed out, is clearly not germane to the pending section. The Chair is therefore compelled to sustain the point of order.

Mr. BARTLETT of Georgia. Mr. Speaker, I withdraw the amendment and offer the following amendment in its place.

The SPEAKER pro tempore. The gentleman from Georgia now offers a further amendment, which the Clerk will report.

The Clerk read as follows:

> After line 21, page 143, section 166, insert:
> "*Provided, however,* That claimants in all suits against the United States Government to recover property or the value thereof, taken or seized by the authorities of the United States Government, whether military or civil, under the act of March 12, 1863, known as the captured and abandoned property act, and acts amendatory thereof, and which said property has been sold and the receipts thereof covered into the United States Treasury, shall not be required as a condition to recovery to prove their loyalty to the United States Government."

Mr. MOON of Pennsylvania. I make the point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state his point of order.

Mr. MOON of Pennsylvania. Mr. Speaker, the Chair will observe this section, 166, does not contain the disqualification to recover against men on account of loyalty, but is simply a section providing certain things. It provides that whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to the late rebellion, and so forth, the burden of proof must lie upon the person asserting it, and provides further that the residence of the person in the territory in the rebellion shall be prima facia evidence that he was engaged therein. It is not the section that contains the disqualification to bring suit; it is only a rule of procedure and a prima facie assumption created by this section, and therefore the amendment would not be germane to that.

Mr. BARTLETT of Georgia. Mr. Speaker, one word, if the gentleman will permit me. The only question is the germaneness of the amendment to the section. It is germane to the subject matter and chapter.

The only thing that is suggested is that it is not germane to this particular section. This first section has reference to a mode of procedure and what the character of evidence shall be before the court required to establish the claim. It says here:

> Whenever it is material in any claim to ascertain whether any person did or not give any aid or comfort to the late rebellion, the claimant asserting loyalty, etc.

The amendment now makes a proviso making an exception from this drastic general provision what the claimant shall do if he shall prove loyalty, and that his residence in a certain locality shall not be prima facie evidence of disloyalty. All the amendment does is to except from the provisions of the paragraph the suit of any person who shall bring a claim against the United States on account of captured and abandoned property under the act of 1863 or acts amendatory thereto. Now, it will not do to say that you can not bring a suit under those acts; it will not do to say that the statutes of limitation will apply to a suit brought under those acts. That is another question for the courts to determine. The statute of limitation might not be plead by the Government. Congress has passed acts, and has done so from time to time, authorizing the bringing of a suit in a certain claim, and the statute of limitation should not apply there. There have been a number of cases, large in amount, that have occurred since I have been here as a Member of Congress, notably the Cramp Shipyard case, where millions of dollars were paid to the shipbuilders of Pennsylvania after the statute of limitation had run. Now, this simply excepts from the rule of evidence required in this section for all claimants in a certain class claimants who may bring a suit under that act.

The SPEAKER pro tempore. The Chair is ready to rule. Section 166, to which this amendment is offered relates entirely to the matter of proving the loyalty of claimants in cases against the Government of the United States. The pro-

posed amendment provides that in certain cases the claimant shall not be required to prove loyalty. That seems to the Chair to be germane to the section. The gentleman from Pennsylvania [Mr. MOON] suggests that it is in conflict with some previous statute, or previous provision of this statute, which is very likely, but it is for the House to determine whether or not it wishes to enact a provision in conflict with existing law, or with a previous section of this bill. This bill is not like a general appropriation bill, on which it is out of order, under the rules of the House, to change existing law. It is quite competent for the House to legislate, if it so desires, and to legislate by an amendment to this section, providing the amendment is germane to the section.

The Chair thinks this amendment is germane to the section, and therefore overrules the point of order.

Mr. MOON of Pennsylvania. Section 154 is the one that imposes that condition of loyalty to the Government. Section 166, where this amendment is pending, only describes the mode of procedure to ascertain.

The SPEAKER pro tempore. It may be that the amendment will make the section conflict with section 154. But it is a question for the House to determine whether or not it will adopt an amendment which would have that effect.

The question is on the amendment offered by the gentleman from Georgia.

The question was taken, and the Speaker pro tempore announced that the Chair was in doubt.

The House divided; and there were—ayes 20, noes 25.

Mr. BARTLETT of Georgia. Mr. Speaker, I demand tellers.

Mr. MOON of Pennsylvania. Mr. Speaker, the time having arrived, I move that the House do now adjourn.

Mr. AUSTIN. Mr. Speaker, I suggest to the gentleman having the bill in charge that we take a recess until 8 o'clock tonight, and have the other Wednesdays to transact other important business.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. BARTLETT] demands tellers upon this vote.

Mr. AUSTIN. The gentleman from Pennsylvania [Mr. MOON] moved to adjourn.

Mr. BARTLETT of Georgia. A parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BARTLETT of Georgia. If the House should adjourn, would this call for tellers be pending?

The SPEAKER pro tempore. The Chair is of the opinion that if the House should now adjourn the demand for tellers would be pending.

Mr. AUSTIN. Mr. Speaker, I would like to move that the House take a recess until 8 o'clock. I would like to make that suggestion to the gentleman having this bill in charge. Let us go on with this measure. It has consumed many Wednesdays here, and there are other important bills on the calendar that we ought to take action on before adjournment.

Mr. MANN. The rules do not permit of taking a recess on calendar Wednesday.

Mr. AUSTIN. I think we can do it by unanimous consent, then.

The SPEAKER pro tempore. The motion to adjourn, of course, is in order and is not debatable, but if the gentleman will withhold it for a minute and the House will consent, the Chair will lay before the House several communications which have been received.

SAN FRANCISCO EXPOSITION.

The SPEAKER pro tempore laid before the House the following telegraphic communications:

SACRAMENTO, CAL., *January 31, 1911.*

Hon. J. G. CANNON, *Speaker,*
Washington, D. C.:

The Legislature of the State of California this day adopted the following joint resolution, No. 14, and directed its immediate transmission to your honorable body:

Senate joint resolution 14—Introduced in senate, January 31, 1911, by Senator Edw. I. Wolfe, of San Francisco.

Whereas the House of Representatives of the Congress of the United States has in its wisdom this day selected the city of San Francisco as the place for holding the Panama-Pacific International Exposition in the year 1915; and

Whereas the people of the State of California realize the great benefit and prestige which will accrue to the people of this State by reason of holding such exposition here; and

Whereas the result of the determination of such House of Representatives has caused great rejoicing in the hearts of the people of this State: Now, therefore, be it

Resolved by the senate and assembly of the Legislature of the State of California jointly, That this legislature does sincerely thank the said House of Representatives upon their said action and the President of the United States for his friendship, and we do further congratulate and thank our Representatives in Congress and the committee of citizens in attendance at Washington in San Francisco's interest upon the brilliant and signal success which has crowned their untiring efforts; and be it further

Resolved, That a copy of this resolution be immediately transmitted by telegraph to the said House of Representatives.

ALBERT J. WALLACE,
President of Senate.
WALTER N. PARRISH,
Secretary of Senate.
A. H. HEWITT,
Speaker of Assembly.
L. B. MALLORY,
Chief Clerk of Assembly.

SAN FRANCISCO, CAL., *January 31, 1911.*

Hon. JOE CANNON,
Speaker House of Representatives, Washington, D. C.:

On behalf of the 70,000 building artisans, mechanics, and laborers of California, permit us to convey to you and the Members of the House of Representatives our appreciation and gratitude for the recognition accorded our city by your votes, which has placed us before the civilized world as the most befitting geographical center for the celebration of the mightiest physical achievement in human history. We assure you that the men who rebuilt San Francisco will do their share toward making the Panama-Pacific Exposition the greatest event in the world's progress.

O. E. TVIETMOE,
Secretary-Treasurer State Building
Trades Council of California.

CAPITOL, SACRAMENTO, CAL., *January 31, 1911.*

The Hon. JOE G. CANNON,
Speaker of the House of Representatives
of the United States, Washington, D. C.

SIR: I have the honor to inform you that the following assembly joint resolution, No. 9, was this day passed unanimously in both assembly and senate and ordered immediately transmitted through you to the Senate of the United States:

"Whereas the House of Representatives officially has recognized San Francisco as the fitting place for the holding of an international exposition to commemorate the opening of the Panama Canal in 1915; and

"Whereas this result has been effected in large measure by the patriotic endeavors of many of the citizens of the State who have unselfishly devoted themselves to the task: Now, therefore, be it

"*Resolved by the senate and assembly jointly,* That the thanks of the citizens of California expressed by their representatives in the State legislature be, and they are hereby, tendered to the Members of the Congress of the United States, in both Houses, and to all who have so generously aided California in securing the official recognition for the Panama-Pacific International Exposition; and be it further

"*Resolved,* That this resolution be telegraphed to the Speaker of the House of Representatives and to the President of the Senate of the Congress of the United States."

L. B. MALLORY,
Chief Clerk of Assembly.
A. H. HEWITT,
Speaker of Assembly.
A. J. WALLACE,
President of Senate.
WALTER N. PARRISH,
Secretary of Senate.

CODIFICATION OF THE LAWS.

Mr. MOON of Pennsylvania. Mr. Speaker, I withdraw my motion to adjourn. It is the desire on the part of many Members to proceed.

Mr. BARTLETT of Georgia. I renew the motion to adjourn.

Mr. JAMES. Withdraw it.

Mr. BARTLETT of Georgia. All right; I will.

The SPEAKER pro tempore. Does the gentleman from Georgia insist on his demand for tellers?

Mr. BARTLETT of Georgia. Yes, sir.

Tellers were refused.

Mr. BARTLETT of Georgia. The other side, Mr. Speaker.

The SPEAKER pro tempore. There is no other side. We are in the House, and it requires 40 gentlemen to second the demand for tellers.

Mr. BARTLETT of Georgia. I make the point of no quorum.

ADJOURNMENT.

Mr. MOON of Pennsylvania. Mr. Speaker, then I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned until Thursday, February 2, 1911, at 12 o'clock m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for repairs in the Pension Building (H. Doc. No. 1342); to the Committee on Appropriations and ordered to be printed.

2. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Mollie D. Wilson, Honora Myers, Julia Davis, and John C. Lyons, heirs of estate of Daniel Lyons, against The United

States (H. Doc. No. 1343); to the Committee on War Claims and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for contingent expenses, Department of the Interior (H. Doc. No. 1344); to the Committee on Appropriations and ordered to be printed.

4. A letter from the president of the Great Falls & Old Dominion Railroad Co., transmitting the report for the year ended December 31, 1910 (H. Doc. No. 1345); to the Committee on the District of Columbia and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a letter from the Civil Service Commission submitting an estimate of appropriation for removal of civil-service quarters and rent for new quarters (H. Doc. No. 1346); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HIGGINS, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 179) to provide for the distribution of the reports of the United States circuit courts of appeals and of the United States circuit and district courts to certain officers of the United States, and for other purposes, reported the same with amendment, accompanied by a report (No. 2035), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEVENS of Minnesota, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 9351) to amend an act entitled "An act providing for the retirement of certain medical officers of the Army," approved June 22, 1910, reported the same without amendment, accompanied by a report (No. 2036), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 31730) to remedy in the line of the Army the inequalities in rank due to the limited application given section 1204 of the Revised Statutes of the United States, reported the same with amendment, accompanied by a report (No. 2039), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HAMER, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 9566) to reserve certain lands and to incorporate the same and make them a part of the Pocatello National Forest Reserve, reported the same without amendment, accompanied by a report (No. 2040), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ROBINSON, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 32082) limiting the privileges of the Government free bathhouse on the public reservation at Hot Springs, Ark., to paupers, reported the same with amendment, accompanied by a report (No. 2038), which said bill and report were referred to the House Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII,

Mr. BURKE of Pennsylvania, from the Committee on Education, to which was referred the bill of the House (H. R. 12318) to create an executive department of education, reported the same adversely, accompanied by a report (No. 2037), which said bill and report were laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MILLER of Minnesota: A bill (H. R. 32339) to pay the expenses of the delegation of Chippewa Indians from White Earth Reservation, Minn., to Washington during the third session of the Sixty-first Congress; to the Committee on Indian Affairs.

Also, a bill (H. R. 32340) to authorize the Rainy River Improvement Co. to construct a dam across the outlet of Namakan Lake at Kettle Falls, in St. Louis County, Minn.; to the Committee on Interstate and Foreign Commerce.

By Mr. STEVENS of Minnesota: A bill (H. R. 32341) to authorize the St. Paul Railway Promotion Co., a corporation, to construct a bridge across the Mississippi River near Nininger, Minn.; to the Committee on Interstate and Foreign Commerce.

By Mr. KINKAID of Nebraska: A bill (H. R. 32342) to appropriate $50,000 for the resurvey of public lands in the State of Nebraska; to the Committee on Appropriations.

By Mr. CANTRILL: A bill (H. R. 32343) enlarging the powers of the Tariff Board; to the Committee on Ways and Means.

By Mr. SMITH of California: A bill (H. R. 32344) to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest; to the Committee on the Public Lands.

By Mr. HOBSON: A bill (H. R. 32345) to incorporate the Elementary Education Foundation; to the Committee on Education.

By Mr. BURKE of South Dakota: A bill (H. R. 32346) to amend section 2 of an act approved March 2, 1907, entitled "An act providing for the allotment and distribution of Indian tribal funds" (34 Stat. L., 1221, 1222); to the Committee on Indian Affairs.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 32347) for the removal of restrictions on the alienation of inherited Osage lands, providing for the partition thereof, and for other purposes; to the Committee on Indian Affairs.

Also, a bill (H. R. 32348) supplementary to and amendatory of the act entitled "An act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June 28, 1906, and for other purposes; to the Committee on Indian Affairs.

By Mr. HAMER: A bill (H. R. 32349) authorizing the Secretary of the Interior to cause allotments to be made of the lands on the Fort Hall Indian Reservation in Idaho; to the Committee on Indian Affairs.

By Mr. ELVINS: A bill (H. R. 32350) for the apportionment of Representatives in Congress among the several States under the Thirteenth Decennial Census; to the Committee on the Census.

By Mr. MARTIN of Colorado: Resolution (H. Res. 944) requesting the Secretary of the Interior to furnish certain information; to the Committee on Irrigation of Arid Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 32351) granting a pension to George W. Bussey; to the Committee on Invalid Pensions.

By Mr. ANDERSON: A bill (H. R. 32352) granting a pension to Margaret Patterson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32353) granting an increase of pension to Isaac Jump; to the Committee on Invalid Pensions.

By Mr. ANDREWS: A bill (H. R. 32354) for the relief of the heirs of Diego Antonio Sanchez on account of losses sustained through depredation of Navajo Indians; to the Committee on Claims.

Also, a bill (H. R. 32355) granting an increase of pension to J. M. Rice; to the Committee on Invalid Pensions.

By Mr. BARNARD: A bill (H. R. 32356) for the relief of Martin L. Grose; to the Committee on Military Affairs.

Also, a bill (H. R. 32357) granting a pension to Morton W. Sebring; to the Committee on Pensions.

By Mr. BARTHOLDT: A bill (H. R. 32358) granting a pension to Anton Oppermann; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32359) granting an increase of pension to Julius Bongner; to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: A bill (H. R. 32360) for the relief of Atwell B. Gatewood; to the Committee on Claims.

Also, a bill (H. R. 32361) for the relief of James Walling; to the Committee on Claims.

By Mr. BORLAND: A bill (H. R. 32362) granting an increase of pension to Henry T. Clark; to the Committee on Invalid Pensions.

By Mr. BURLEIGH: A bill (H. R. 32363) granting an increase of pension to Sewall R. Reeves; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32364) granting an increase of pension to Seth M. Young; to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 32365) granting an increase of pension to James F. Watson; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 32366) granting an increase of pension to John L. Eblen; to the Committee on Invalid Pensions.

By Mr. CLINE: A bill (H. R. 32367) for the relief of Manuel and Celestino Luz; to the Committee on War Claims.

By Mr. CONRY: A bill (H. R. 32368) granting an increase of pension to Michael T. Driscoll; to the Committee on Pensions.

By Mr. DOUGLAS: A bill (H. R. 32369) granting a pension to George Dobson; to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 32370) granting an increase of pension to William R. Smith; to the Committee on Invalid Pensions.

By Mr. GAINES: A bill (H. R. 32371) for the relief of the widow and heirs of Charles W. Hutcheson; to the Committee on War Claims.

By Mr. GOULDEN: A bill (H. R. 32372) for the relief of Nicholas Lochboehler; to the Committee on War Claims.

By Mr. HANNA: A bill (H. R. 32373) granting an increase of pension to Thomas Parsley; to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 32374) granting an increase of pension to Lorenzo S. St. John; to the Committee on Invalid Pensions.

By Mr. HOWELL of New Jersey: A bill (H. R. 32375) granting an increase of pension to Isaac R. Stelle; to the Committee on Invalid Pensions.

By Mr. HOWLAND: A bill (H. R. 32376) granting an increase of pension to Chauncey C. Halliwill; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32377) granting an increase of pension to Charles A. Howk; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 32378) granting an increase of pension to Richard W. Baker; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 32379) for the relief of Benjamin F. Knox; to the Committee on Military Affairs.

Also, a bill (H. R. 32380) granting an increase of pension to Clendenna Curtis; to the Committee on Invalid Pensions.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 32381) granting a pension to Mary W. Alcorn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32382) granting an increase of pension to Jacob Amberg; to the Committee on Invalid Pensions.

By Mr. McLACHLAN of California: A bill (H. R. 32383) granting an increase of pension to Milburn G. Wills; to the Committee on Pensions.

By Mr. MASSEY: A bill (H. R. 32384) granting a pension to John Ward; to the Committee on Pensions.

Also, a bill (H. R. 32385) granting a pension to Isaac A. Wampler; to the Committee on Invalid Pensions.

By Mr. MONDELL: A bill (H. R. 32386) granting an increase of pension to Ellen Billcox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32387) granting an increase of pension to Francis W. Burnham; to the Committee on Invalid Pensions.

By Mr. MORSE: A bill (H. R. 32388) to remove the charge of desertion from the record of John Holmes, who enlisted under the name of Patrick Murphy; to the Committee on Military Affairs.

By Mr. NICHOLLS: A bill (H. R. 32389) for the relief of John L. Hunt; to the Committee on Military Affairs.

By Mr. NYE: A bill (H. R. 32390) granting a pension to Charles J. Meggison; to the Committee on Pensions.

By Mr. A. MITCHELL PALMER: A bill (H. R. 32391) granting an increase of pension to Catharine Kistler; to the Committee on Invalid Pensions.

By Mr. PRATT: A bill (H. R. 32392) granting an increase of pension to Emma J. Wheeler; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 32393) for the relief of John Treffeisen; to the Committee on Military Affairs.

By Mr. SHEFFIELD: A bill (H. R. 32394) granting an increase of pension to Betsey A. Streeter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32395) granting an increase of pension to Annie P. Marchant; to the Committee on Invalid Pensions.

By Mr. STURGISS: A bill (H. R. 32396) granting an increase of pension to Pryor G. Guseman; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of J. D. Browning, of Murchison, Tex., and E. R. Philabaum and one other, of Paris, Ill., protesting against the establishment of a parcels post; to the Committee on the Post Office and Post Roads.

Also, petition of municipal bodies in the Philippine Islands, in relation to the sale of friar lands; to the Committee on Insular Affairs.

Also, petition of Common Council of Arecibo, P. R., protesting against pending legislation regarding agricultural corporations; to the Committee on Insular Affairs.

Also, petition of Jersey City (N. J.) Branch of the American Association of Masters, Mates, and Pilots, protesting against compulsory pilotage on American vessels; to the Committee on the Merchant Marine and Fisheries.

Also, petition of Amos L. Griffith, of Pell City, Ala., praying for legislation increasing the pensions of veterans of the Civil War; to the Committee on Invalid Pensions.

Also, petition of Illinois Branch of the Colonial Dames of America, protesting against the location of a criminal reformatory adjacent to the home and grave of Washington; to the Committee on the District of Columbia.

Also, memorial of Legislature of the State of Washington, praying for the passage of legislation to promote the efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the executive committee on legislation of the Five Years Meeting of the Religious Society of Friends in America, protesting against the fortification of the Panama Canal; to the Committee on Interstate and Foreign Commerce.

Also, petitions of Forty-fourth National Encampment of the Grand Army of the Republic, praying for legislation to establish burial lots for Civil War veterans in national cemeteries; protesting against the transfer of the management of the National Homes for Disabled Volunteer Soldiers to Regular Army officers; and praying for the removal of the remains of Gen. Phil Kearny to Arlington Cemetery and the erection of a monument therein to his memory.

By Mr. ADAIR: Petition of General Assembly of Indiana, favoring Senate bill 5677, promoting efficiency of Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON: Papers to accompany bills for relief of William A. Ross, David R. Routson, John Ryan, William J. Morris, Thomas Morgan, Milton McKinnis, James M. Reynolds, William Newson, Barbara Pipher, Elizabeth Youngblood, George H. Weeks, Colins W. Worrman, James West, William H. Waters, Joseph W. Watt, Harry L. Vance, F. M. Taylor, Alfred T. Tallman, James Milton Thomas, Frank E. Schoener, George W. Smith, Eli Snyder, Joseph Shindorff, William Schaeffer, Peter Scott, Albert A. Root, and Harvey B. Ragon; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: Petition of Central Labor Union of Brooklyn, N. Y., in favor of construction of the battleship *New York* in the New York Navy Yard; to the Committee on Naval Affairs.

Also, petition of business firms of Montpelier, Ohio, against extension of parcels-post service; to the Committee on the Post Office and Post Roads.

Also, petition of Charles M. Davis, Edon, Ohio, for a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of Ohio Federation of Labor, for retention of the eight-hour clause in naval appropriation bill and building of battleship *New York* in the New York Navy Yard; to the Committee on Naval Affairs.

By Mr. ASHBROOK: Petition of Newark (Ohio) Trades and Labor Assembly, for reduction of tax on oleomargarine; to the Committee on Agriculture.

Also, petition of Central Labor Union of Brooklyn, for construction of battleship *New York* in the New York Navy Yard; to the Committee on Naval Affairs.

By Mr. BARCLAY: Petition of Journeymen Barbers' Union, Local No. 248, Dubois, Pa., for repeal of oleomargarine tax; to the Committee on Agriculture.

By Mr. BARTHOLDT: Petition of the Legislature of Missouri, for appropriation to protect banks of the Missouri and Mississippi Rivers and for preservation of national resources; to the Committee on Rivers and Harbors.

Also, petition of 70 citizens of Valley Park, Mo., against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. BEALL of Texas: Paper to accompany bill for relief of Atwell B. Gatewood and James Walling; to the Committee on Claims.

By Mr. BURKE of South Dakota: Petition of citizens of South Dakota, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. COCKS of New York: Petition of William G. Albertson and others, of New York, for Senate bill 5677, efficiency of Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. COOPER: Petition of Association of Army Nurses, for legislation for their further relief; to the Committee on Invalid Pensions.

By Mr. CURRIER: Memorial of New Hampshire Legislature, favoring Senate bill 5677, to promote efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. DAWSON: Petition of H. C. Gates and seven other citizens of Ladora, Iowa, against a rural parcels post; to the Committee on the Post Office and Post Roads.

By Mr. DRAPER: Petition of Down Town Taxpayers, for construction of battleship *New York* in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

By Mr. DRISCOLL: Petitions of Down Town Taxpayers' Association, of New York City, and Central Labor Union of Brooklyn, N. Y., for the construction of the battleship *New York* in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

By Mr. ESCH: Petition of National German-American Alliance, for H. R. 9137, monument at Germantown to commemorate first German settlement in America; to the Committee on the Library.

By Mr. FITZGERALD: Petition of national convention of the National Tariff Commission Association, for a permanent tariff commission; to the Committee on Ways and Means.

Also, petition of Central Citizens' Association of Brooklyn, N. Y., for construction of battleship *New York* in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

Also, petition of thirteenth annual convention of the Federation of Labor, for restriction of tax on oleomargarine to 2 cents per pound; to the Committee on Ways and Means.

Also, petition of Cordova (Alaska) Chamber of Commerce, favoring opening of coal lands in Alaska; to the Committee on the Territories.

Also, petition of Robert N. Duncan and other residents of the District of Columbia, for extension of Barry Place in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of Brooklyn Engineers' Club, for detaching of assistant engineers by the Chief of Engineers with certain rank in river and harbor work; to the Committee on Rivers and Harbors.

Also, paper to accompany bill for relief of William H. Arden; to the Committee on Invalid Pensions.

Also, petition of Southern California Homeopathic Medical Society, against the Owen health bill; to the Committee on Agriculture.

Also, petition of James Woods, of Mount Kisco, N. Y., chairman of the executive committee of the Five Years Meeting of the Society of Friends in America, deploring the proposal to fortify the Panama Canal and favoring its neutralization by international agreement; to the Committee on Military Affairs.

Also, petition of Federal Labor Union, No. 12552, for enactment of illiteracy test for immigrants; to the Committee on Immigration and Naturalization.

By Mr. FLOYD of Arkansas: Petition of citizens of the third congressional district of Arkansas, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. FOCHT: Petition of Blue Ridge Council, No. 453, Junior Order United American Mechanics, Newton Hamilton, Pa., for H. R. 15413; to the Committee on Immigration and Naturalization.

By Mr. FORNES: Petition of Newman & MacBain, of New York City, favoring settlement of French spoliation claims; to the Committee on Foreign Affairs.

Also, petition of United States Customs Employees' Mutual Benefit Association, for H. J. Res. 258, raising of employees' salaries; to the Committee on Appropriations.

Also, petition of railway mail clerks, for legislation granting certain concessions for benefit of railway post-office clerks; to the Committee on Post Office and Post Roads.

Also, petition of Coffin Redington Co., indorsing San Francisco as site for the Panama Exposition; to the Committee on Industrial Arts and Expositions.

Also, petition of Yellow Pine Exchange and other business firms of New York City, favoring New Orleans as site of Panama Exposition; to the Committee on Industrial Arts and Expositions.

By Mr. FULLER: Petition of John C. Foote, of Belvidere, Ill., favoring the Lowden bill, H. R. 30888; to the Committee on Foreign Affairs.

Also, petition of Dooley & Barchfield, of Clare; E. F. Burkholder and others, of Streator; and C. A. Blake, of Mendota, all in the State of Illinois, against parcels-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of Flora (Boone County, Ill.) Grange, No. 1762, favoring a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of United States Customs Employees' Mutual Benefit Association, favoring H. J. Res. 258, for increasing salaries for employees receiving less than $2,500; to the Committee on Appropriations.

By Mr. GRAHAM: Petition of T. J. Marshall, against governmental interference in the German potash controversy; to the Committee on Ways and Means.

By Mr. HANNA: Petition of citizens of North Dakota, favoring H. R. 26791, post-office rural routes; to the Committee on Post Offices and Post Roads.

Also, petition of J. B. Lyon and others, of North Dakota, in favor of a parcels-post law; to the Committee on the Post Office and Post Roads.

Mr. HOWELL of Utah: Petition of C. V. Mohr, of Garfield; George Quinn and others, of Ephraim; F. A. Sorensen and others, of Ogden; Pacific Commercial Co. and others, of Tooele; and Murray Co. and other business firms of Utah, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. HUMPHREY of Washington: Petition of citizens of Washington, against a rural parcels post; to the Committee on the Post Office and Post Roads.

By Mr. JOHNSON of Ohio: Petition of citizens of tenth congressional district of Ohio, for building battleship *New York* in Government navy yard; to the Committee on Naval Affairs.

By Mr. KENDALL: Petition of citizens of Montezuma and Oskaloosa, Iowa, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. LATTA: Petition of Florando Krause Co. and Joseph H. Krause and two others, of West Point; J. C. McChlinney and six others, of Lyons; S. F. Wysocki and six others, of Creston; and John Purtser, of Lindsay, in the State of Nebraska, against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. LINDBERGH: Resolutions adopted by the house of representatives of Minnesota, remonstrating against curtailment of postal service; to the Committee on the Post Office and Post Roads.

Also, petition by citizens of Minnesota, protesting against enactment into law by Congress of parcels-post recommendation; to the Committee on the Post Office and Post Roads.

By Mr. McCREDIE: Petition of Seattle Chamber of Commerce, favoring H. R. 28630, relative to tolls in the Panama Canal; to the Committee on Railways and Canals.

Also, petition of citizens of Washington, favoring joint resolution of May 31, 1870, relative to grant to Northern Pacific Railway; to the Committee on the Public Lands.

Also, petition of citizens of Elona, Wash., protesting against the parcels-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of Whatcom County Pomona Grange, No. 6, against legislation forbidding Government printed envelopes; to the Committee on the Post Office and Post Roads.

By Mr. McKINNEY: Petition of citizens of Carthage, Ill., for construction of battleship *New York* in the New York Navy Yard; to the Committee on Naval Affairs.

By Mr. NICHOLLS: Petition of Washington Camp, No. 449, Patriotic Order Sons of America, of Mount Cobb, Pa., for H. R. 15413; to the Committee on Immigration and Naturalization.

By Mr. A. MITCHELL PALMER: Petition of Washington Camp, No. 429, and Washington Camp, No. 542, Patriotic Order Sons of America, and Stroh Council, Junior Order United American Mechanics, favoring H. R. 15413; to the Committee on Immigration and Naturalization.

By Mr. RUCKER of Colorado: Petition of H. W. Muhlenbrack and others, against S. 404 and H. J. Res. 17; to the Committee on the District of Columbia.

Also, petition of the Weld County Farmers' Club, of Greeley, Colo., against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. SHEFFIELD: Petition of T. F. Buckley and 25 others, favoring construction of battleship *New York* at Government navy yard; to the Committee on Naval Affairs.

By Mr. STERLING: Paper to accompany bill for relief of Jean B. Kopf; to the Committee on Pensions.

Also, paper to accompany bill for relief of Ephraim Gallion; to the Committee on Military Affairs.

By Mr. STURGISS: Paper to accompany bill for relief of Pryor G. Guseman; to the Committee on Pensions.

Also, petition of Stewartstown Council, Junior Order United American Mechanics, and Camp No. 24, Patriotic Order Sons of America, of Paw Paw, W. Va., favoring H. R. 15413; to the Committee on Immigration and Naturalization.

By Mr. YOUNG of New York: Petition of Waldo R. Blackwell and Charles Partridge, Central Labor Union of New York, for construction of battleship *New York* in the Brooklyn Navy Yard; to the Committee on Naval Affairs.